

THE POSITION AND ROLE OF THE ECCLESIASTICAL BAILIE
IN LATE FIFTEENTH AND EARLY SIXTEENTH
CENTURY SCOTLAND

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PREFACE

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Certain conventions which appear in the text should be explained. In general place names and personal names have been modernised, where modern equivalents exist, and in many instances the middle Scots form is placed after the modern in brackets. Where names, in particular geographical names, cannot be identified, they are placed in inverted commas. With regard to dating the following system has been employed. Where a date falls between 1 January and 24 March in general both years to which the date could apply are cited, e.g. 2 February 1499/1500. Where the single form is given the date, as far as may be ascertained, is consonant with the modern dating system. The sign "x" is also employed on occasion to mean "not earlier than the earliest point in time implied by" the preceding date and "not later than the latest point in time implied by" the succeeding date, e.g. 1456x1460.

I certify that this thesis is my own composition.

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List of Abbreviations Used in the Thesis

<u>Aberdeen</u>	<u>Registrum Episcopatus Aberdonensis.</u>
<u>Acts of Council (Public Affairs)</u>	<u>Acts of the Lords of Council</u> <u>in Public Affairs 1501-54.</u>
<u>A.P.S.</u>	<u>The Acts of the Parliaments of Scotland.</u>
<u>Adv. MS.</u>	<u>Advocates Manuscript, National Library of Scotland.</u>
<u>Arbroath</u>	<u>Liber S. Thome de Aberbrothoc.</u>
<u>Brechin</u>	<u>Registrum Episcopatus Brechinensis.</u>
<u>Buccleuch</u>	<u>W. Fraser, The Scotts of Buccleuch.</u>
<u>C.P.L.</u>	<u>Calendar of Entries in the Papal Registers relating</u> <u>to Great Britain and Ireland: Papal Letters.</u>
<u>Carlaverock</u>	<u>W. Fraser, The Book of Carlaverock.</u>
<u>Chrs.</u>	<u>Charters.</u>
<u>Coldingham Chrs.</u>	<u>The History and Antiquities of North Durham, Charters</u> <u>of the Priory of Coldingham, printed as an Appendix.</u>
<u>Coldingham Correspondence</u>	<u>The Correspondence, Inventories,</u> <u>Account Rolls and Law Proceedings of the Priory of</u> <u>Coldingham.</u>
<u>Coupar Chrs.</u>	<u>Charters of the Abbey of Coupar-Angus.</u>
<u>Coupar Rental</u>	<u>Rental Book of the Cistercian Abbey of Cupar Angus.</u>
<u>Crossraguel</u>	<u>Charters of the Abbey of Crossraguel.</u>
<u>Douglas</u>	<u>W. Fraser, The Douglas Book.</u>
<u>Dunfermline</u>	<u>Registrum de Dunfermelyn.</u>
<u>Dunfermline Court Bk.</u>	<u>Regality of Dunfermline Court Book 1531-38.</u>
<u>Easson, Religious Houses</u>	<u>Medieval Religious Houses Scotland.</u>
<u>Glasgow</u>	<u>Registrum Episcopatus Glasguensis.</u>
<u>Grant</u>	<u>W. Fraser, The Chiefs of Grant.</u>

<u>Haddington</u>	W. Fraser, <u>Memorials of the Earls of Haddington.</u>
<u>H.M.C. Rept.</u>	<u>Report of the Royal Commission on Historical Manuscripts.</u>
<u>Holyrood</u>	<u>Liber Cartarum Sancte Crucis.</u>
<u>Inchaffray</u>	<u>Charters, Bulls and other Documents relating to the Abbey of Inchaffray.</u>
<u>Inchcolm</u>	<u>Charters of the Abbey of Inchcolm.</u>
<u>Laing Chrs.</u>	<u>Calendar of the Laing Charters 854-1837.</u>
<u>L.P. Henry VIII</u>	<u>Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII.</u>
<u>Kelso</u>	<u>Liber S. Marie de Calchou.</u>
<u>Kilwinning</u>	<u>Collections towards a History of the Monastery of Kilwinning.</u>
<u>Kinloss</u>	<u>Records of the Monastery of Kinloss.</u>
<u>May</u>	<u>Records of the Priory of the Isle of May.</u>
<u>Melrose</u>	<u>Liber Sancte Marie de Melros.</u>
<u>Melville</u>	W. Fraser, <u>The Melvilles Earls of Melville and the Leslie Earls of Leven.</u>
<u>Menteith</u>	W. Fraser, <u>The Red Book of Menteith.</u>
<u>Methven</u>	<u>The Provosts of Methven.</u>
<u>Midlothian Chrs.</u>	<u>Charters of the Hospital of Soltre, of Trinity College, Edinburgh, and other Collegiate Churches in Midlothian.</u>
<u>Montgomery</u>	W. Fraser, <u>Memorials of the Montgomeries Earls of Eglinton.</u>
<u>Moray</u>	<u>Registrum Episcopatus Moraviensis.</u>
<u>Newbattle</u>	<u>Registrum S. Marie de Neubotle.</u>
<u>Oliphant</u>	J. Anderson, <u>The Oliphants in Scotland.</u>
<u>Origines Parochiales</u>	<u>Origines Parochiales Scotiae.</u>

<u>Paisley</u>	<u>Registrum Monasterii de Passelet.</u>
<u>Panmure</u>	<u>Registrum de Panmure.</u>
Patrick, <u>Statutes</u>	<u>Statutes of the Scottish Church.</u>
<u>Peerage</u>	<u>The Scots Peerage.</u>
<u>Perth Blackfriars</u>	<u>The Blackfriars of Perth.</u>
<u>Pluscardyn</u>	<u>History of the Religious House of Pluscardyn</u>
<u>Prot. Bk. Cristisone</u>	<u>Protocol Book of Sir John Cristisone.</u>
<u>Prot. Bk. Johnsou</u>	<u>Protocol Books of Dominus Thomas Johnsou.</u>
<u>Prot. Bk. Ros</u>	<u>Protocol Book of Gavin Ros.</u>
<u>Prot. Bk. Symson</u>	<u>Protocol Book of Alexander Symson.</u>
<u>Prot. Bk. Young</u>	<u>Protocol Book of James Young.</u>
<u>R.M.S.</u>	<u>Registrum Magni Sigilli Regum Scotorum.</u>
<u>R.S.S.</u>	<u>Registrum Secreti Sigilli Regum Scotorum</u>
S.R.O., GD.	Scottish Record Office, Gift and Deposit Collection (see below).
<u>Sutherland</u>	<u>W. Fraser, The Sutherland Book.</u>
Watt, <u>Fasti</u>	<u>Fasti Ecclesiae Scoticae Medii Aevi ad annum 1638</u>
<u>Wemyss</u>	W. Fraser, <u>Memorials of the Family of Wemyss of Wemyss.</u>

Gift and Deposit Collection, Scottish Record Office

Ailsa	Ailsa Muniments
Airlie	Airlie Muniments
Antiquaries	Society of Antiquaries of Scotland Collection
Blebo	Blebo Writs
Broughton and Cally	Broughton and Cally Muniments
Cardross	Cardross Writs
Craigmillar	Craigmillar and Liberton Collection
Crawford	Crawford Priory Collection

Curle	Curle Collection
Dalhousie	Dalhousie Muniments
Douglas	Douglas Collection
Dundas	Dundas of Dundas Papers
Duntreith	Duntreith Muniments
Eglinton	Eglinton Muniments
Errol	Errol Charters
Fraser	Fraser Charters
Galloway	Galloway Charters
Gordon	Gordon Castle Muniments
Haddo	Haddo House Muniments
Home of Marchmont	Home of Marchmont Papers
Mackintosh	Mackintosh Muniments
Makgill	Makgill Charters
Mar and Kellie	Mar and Kellie Muniments
Miscellaneous	Miscellaneous Accessions
Morton	Morton Papers
Newbattle	Newbattle Collection
Rossie Priory	Rossie Priory Muniments
Yester	Yester Writs

SUMMARY

This thesis takes the form of an examination of the office of ecclesiastical bailie in Scotland in the late fifteenth and early sixteenth centuries. The office, in origin and in essence, was legal and judicial, but in the fifteenth century the principal role of the bailie came increasingly to be one of defence of ecclesiastical land and privilege. The office existed at all levels in the Church, from large monastery to small chapel, and normally came to be held by men of noble class. As with most medieval offices it tended to become hereditary in a particular family. It was a source of considerable economic gain to the nobility, to judge by the rush all over Scotland to secure its possession. Indeed possession of an ecclesiastical bailiary could be one step on the road to the secularisation of Church lands in the post-Reformation period and may have acted as a social catalyst which allowed many of Scotland's middling noble families to reach the highest echelons of the nobility. The office was not purely Scottish and was to be found throughout Europe at this time. As far as may be determined, no extensive research has been done on the equivalents for any other European country, and it is hoped that this may be the first of many studies into the significance of the office in late medieval ecclesiastical history.

CHAPTER ONE

GENERAL INTRODUCTION

T.F. Tout once remarked that the history of the fifteenth century is too difficult to be written and it is, therefore, with some trepidation that the historian embarks upon any study of the period. Tout was speaking in general terms. His words bear possibly even more relevance to the history of the Church in the fifteenth century. As yet remarkably little detailed research has been done on the period between the Great Schism and the beginning of the Lutheran Reformation, in comparison to earlier and later periods. There is no comprehensive modern work devoted solely to the history of the Church in the fifteenth century, while general histories again and again devote merely a few pages to the period. It is, of course, upon detailed regional studies that the general historians ultimately depend, and it is hoped that this thesis may add something to the general corpus of knowledge.

The thesis takes the form of an "in-depth" examination of the institution of the ecclesiastical bailiary in Scotland during the years 1450 to 1542 with additional reference to evidence slightly outwith the prescribed period. These years comprise a coherent period in both a European and a Scottish context. In Scotland they cover the effective reigns of the kings James II to James V, a time of slow but steady development of royal power after the confusion of the regency of the 1440s and before the confusion of the regency in the 1540s, which culminated in the political and religious revolution of 1560. After the death of James V in 1542 interference by the foreign powers of France and England in the internal politics of Scotland, coupled to the increasingly disruptive influence of Lutheran and reforming thought, tended to produce novel and unstable conditions,

which affected the development of the institution under examination. It is, therefore, largely, but not wholly, to the ninety or so years of relatively steady development before the complicating factors of the later cataclysm came to bear, that this investigation is devoted.

On an international scale too these terminal dates prove convenient. By 1450 the disruption in the Church, caused by the councils of Constance and Basel, was coming to an end and a distinguishably new phase in its development was begun with the rise of the so-called "Renaissance Popes". For the bulk of the period covered by this work the Pope generally acted more like an Italian prince than a universal monarch and, until the reign of Paul III, appeared to remain blissfully unaware of the mass of unrest in the Church as a whole. In 1542 the letters of summons to a General Council of the universal Church, ultimately to be held at Trent, were issued and though there had been previous attempts at reform, this marked the true beginning of the massive and re-invigorating effort, whose aim and result was a complete reform of doctrine and discipline. By this time Europe had perceptibly entered a new "counter-reformationary" period, where new forces were at play. Thus it is argued, that the years between 1450 and 1542 do constitute a reasonably coherent period with certain unifying factors, which were present neither before nor after.

As indicated, this thesis is concerned with an examination of the institution of the ecclesiastical bailiary, during the century or so spanned by the effective reigns of James II to James V. This in itself was part of the wider process of the secularisation of the Church. By "secularisation" is meant that process, whereby the lands

and revenues of the Church fell under the control and into the hands of the laity. The devices by which the laity participated in the landed wealth of the Church, as one historian has pointed out, were many and varied. "Stewardships, wardenships, corrodiess, pensions of all kinds were awarded to the laity by the possessioners".¹ This thesis will consider just one of these methods, that of the stewardship. Briefly the grant of the stewardship, or in the Scottish context, the bailiary of an ecclesiastical institution to a lay nobleman gave him the task of administering its temporal estates.

Possibly it is a truism to recall the inordinate wealth of the Church as a whole, and of the monasteries in particular. In Scotland by the mid-sixteenth century one historian has concluded that the value of the Church lands in terms of taxation was one half of the contribution of the whole nation.² The income of two hundred abbeys, monasteries, ^{and hospitals} convents³ has been assessed at £220,000,³ while that of the archbishoprics, bishoprics and cathedral chapters has been estimated to be £33,000.⁴ Modern historians have not been alone in recognising the wealth of the Church in Scotland. In 1556 Cardinal Sermoneta wrote to the Pope that the Scottish clergy far surpassed the laity "in wealth and the abundance of their resources".⁵ The eyes of the nobility of Europe were turned to this ready source of wealth, wealth which might be employed to bolster their own fortunes. One of the principal methods, whereby this wealth might be tapped is that under examination here.

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1. D. Hay, Introduction, The New Cambridge Modern History, p. 13.
 2. I.F. Grant, The Social and Economic Development of Scotland before 1603, p. 223.
 3. Ibid.
 4. Ibid. For more recent estimates see valuations given in Easson, Religious Houses, *passim*.
 5. Cited by I.F. Grant, ibid.

In many ways the history of the development of the ecclesiastical bailiary bore a distinct resemblance to that of the commend, the other principal method, whereby the lay nobility of Europe sought to participate in the wealth of the Church. Historians of the commend¹ generally divide its history into two periods; the early,² where a commend was granted in the interests of the benefice commended and was explicitly a temporary expedient and the later, where the benefice was granted in the interests of the grantee. A similar division might also be applied to the development of the office of bailie. In the early period, when the Church was strong, the bailie was a beneficial officer, who took out of the hands of the clergy the administration of their temporal estates. He could be dismissed at will and was truly their servant. But during the period under consideration the bailie tended to rise in social status and to become something of an "over-mighty vassal". The office was taken on for the gains which it offered, with a view to the appropriation of ecclesiastical revenues. Gradually the length of tenure was extended. Thus the office of bailie underwent a similar and parallel development to that of the commendator. The ultimate aim of both personages was to secure for their own ends the revenues of the Church. Both ultimately undermined the strength of that institution.

1. Little research has been done on the commend and little secondary material is in existence. The most modern exposition is by R. Laprat, Dictionnaire de droit canonique, III, p. 1029-1085. See also G. Quäbicker, Die Commenden des canonischen Rechts; L. Thomassimus, Vetus et Nova Ecclesiae Disciplina Circa Beneficia et Beneficiarios, II, pt. 3, pp. 269-313, and Z.B. Van Espen, Commentarius in Canones Juris Veteris ac Novi et in ius Novissimum, I, pp. 320-7.

2. *In the eighth and ninth centuries.*

Though no other modern historian seems to have regarded these institutions in this light, more than two hundred and seventy years ago Augustine Hay recognised both as being equally destructive of the well-being of the Church. In a remarkably perceptive exposition in what is altogether a remarkable work for its period, Hay sketched a brief history of these institutions and drew some exceptionally shrewd conclusions.

"As for the commend or commendators", he said "there were of old two commendams. The first was a simple intrusting of a Church after the death of its pastor, to a neighbour prelat, who performed the functions therein to such time as a successor was chosen. The second was introduced for defending the Church from the usurpation of covetous men. For that end there were chosen some persons of quality whom they called avoue commendators, advocats and sometimes abbots or abbots souldiers.¹ The distinction betwixt those two commend is remarkable. The first were granted to churchmen that they might exerce their functions in the churches that were committed to their care. The last were given to seculars who by strength or reason might hinder the usurpations. Both were different from the commendams of our days. Since they were for the benefit of the Church, and the last are granted for the profit of the titular. The first were granted for the conservation of the benefices, and the last are given for their destruction. Those two commendams gave way to two others. The seculars who were appointed to conserve the rents and rights of the church became att length maisters, and the churchmen who in former times were intrusted with the churches upon a good account became in

1. These latter figures undoubtedly were the officers more generally known as bailies.

succeeding ages their tyrants".¹ It is with these words in mind that this examination of the office of bailie, or ecclesiastical steward, within the kingdom of Scotland should be considered.

1. A.Hay, Ane account of the most renowned churches, bishopricks, monasteries and other devote places from the first introducing of Christianity into Scotland to ... the severall reformations of religion. (Scotia Sacra). (Adv. MS. 34.1.8. fo. 292).

CHAPTER TWO

THE CHURCH IN LATE MEDIAEVAL EUROPE

Whether consciously or not, the Church in the fifteenth century was on the defensive and its history was one of contraction. As an institution it suffered at the advances of the fast maturing "nation states", and as the exponent of the Christian ideal, it was faced with rabid anti-clericalism, and a new heightened religiosity, which found the Church wanting and which the Church found itself ultimately unable to harness, before Luther and his disciples had created a major and lasting schism in the Church.

By the beginning of the fifteenth century ecclesiastical government in general, and the Papacy in particular, were so weak that they were no longer in a position to threaten any temporal ruler, as had been the case in the days of Gregory VII, Innocent III and Boniface VIII. The successive traumas of the Avignon Captivity, the Great Schism and the Conciliar Epoch had shattered the universality of the Church and weakened the central administration. The Church was reeling before what has been called the "inflationary spiral"¹ at the very time when the nation states were appearing as recognisable entities.

A sense of nationhood was emerging in all western European lands, with the concomitant destruction of the concept of a "respublica christiana" and the development of that of "europa". Both Henry VIII of England and Francis I of France regarded their lands as "empires" and themselves as having no earthly superior.² The famous act of the Scottish parliament of a slightly earlier period which declared that

1. R.W. Southern, Western Society and the Church in the Middle Ages, pp. 133-69.

2. H.G. Koenigsberger and G.L. Mosse, Europe in the Sixteenth Century, p. 180.

the king "has ful Jurisdictione and fre impire within his Realme", is illustrative of a similar line of thought in that country.¹ Just as the increased sense of national feeling was exhibited in the political constitutional and dynastic history of the period, so also it was shown in the ecclesiastical field. In England the movement of the English Cluniac houses to shake off the control of the French mother-house was an important fifteenth century development. In 1414 an act of parliament was passed expelling all foreign religious and suppressing alien priories,² while in France the Benedictines sold off their English lands.³ In Scotland too the spirit of nationalism is evident. In 1462 the "last English monks on Scottish soil" were ejected⁴ and through our period three of the four old Scottish universities were founded, actions which Boece attributed to a spirit of nationalism.⁵ This spirit was in direct opposition to the concept of the universality of the Church and was a close ally to the different European monarchies in their battle to extract ever greater privileges from Rome and to increase their power over their "national churches".

As Knowles has said, one of the most notable results of the "conciliar epoch" was the tightening of control over these national churches by the secular powers,⁶ an old but by now accelerated process, though one which proceeded at a different rate in different lands. As the conciliar Epoch drew to a close, the various European rulers made their peace with the Papacy in a series of concordats which both

1. A.P.S., II, p. 95, cap. 6.

2. E.F. Jacob, The Fifteenth Century 1399-1485, p. 300.

3. Ibid.

4. R.B. Dobson, 'The Last English Monks on Scottish Soil', Scottish Historical Review, XLVI (1967), pp. 1-25.

5. D. McRoberts, 'The Scottish Church and Nationalism in the Fifteenth Century', Innes Review, XIX (1968), p. 11.

6. D. Knowles, The Christian Centuries: The Middle Ages, p. 426.

confirmed existing privileges over the Church and established new ones. The monarchies with the strongest hold over their churches were those of England and France. England had for some time been protected against overextensive papal interference by the Statutes of Provisors and Praemunire. In France the Pragmatic Sanction of Bourges was followed by other franco-papal agreements, which culminated in the Concordat of Bologna in 1516. Similarly in the Spain of Ferdinand and Isabella, centralising tendencies were evident. Cardinal Ximenes whipped the Church into line and royal nominees were appointed to bishoprics. The Spanish Inquisition became, in effect, a tool of the state rather than of the Church. In Sicily, Naples and Milan the Spanish kings were able to prevent the publication of any papal bull without their permission by the right of "exaquitur". Much of this however was not new. The actual power of the prince in the Church had not changed over much. What was new and significant was that the sixteenth-century papacy was prepared to recognise "de facto" limitations on its power as "de jure".¹

In the temporal and jurisdictional sphere, therefore, the Church found its powers and influences circumscribed. But on the spiritual side too, it came increasingly under attack and its reputation fell drastically in the eyes of the laity, whose souls it was supposed to serve in this world and save in the next.

The Church in general and the Papacy in particular faced what was possibly the most vicious anti-clericalism of its long history. In 1404 Matthew of Cracow published a treatise "Concerning the filth of the Roman Curia",² just one example of the vitriol employed by

1. H.G. Koenigsberger and G.L. Mosse, Europe in the Sixteenth Century, p. 226.

2. Cited by H. Jedin, A History of the Council of Trent, I, p. 12.

contemporary writers. Much of this abuse was centred on the "Renaissance Papacy". It has recently been argued that the anomalies of papal conduct became even more glaring due to the new trends in humanistic thought which emphasised the primacy of the individual.¹ Consequently, the Pope came to be judged more as a person and less as an institution than had been the case in previous centuries. This emphasis on personality came at a particularly inopportune time for the Papacy, when a succession of immoral and incompetent men won the Papal throne. The reputation of the Papacy sank to its lowest ebb.

At the lower level in the ecclesiastical hierarchy the dichotomy between the stated ideals of the Church and the reality became wider and ever more evident to, in particular, the rapidly increasing class of literate laymen. The illiteracy and immorality of the clergy at all levels, coupled with the flagrant abuses of simony, nepotism, absenteeism and pluralism led to a general revulsion among thinking people. Just one example of such gross irregularity is that of Rupert von Simmern, bishop of Strasbourg (1460-1478), who boasted that he had never said mass in his life and received the sacrament only once a year like the laity.²

The laity itself was now playing an ever-increasing role in the Church. Fifteenth century society was better informed than any before, and in many ways the advance in education was associated with the movement away from the institutional Church. Once again the humanistic ideal of a personal rather than institutionalised religion accelerated the process. The "Imitatio Christi" for example, declares that "the wearing of the religious habit and the shaving of the crown do little profit" as compared with the inner transformation

1. W. Ullmann, A Short History of the Papacy in the Middle Ages, pp. 314-318 passim.

2. R.G.D. Laffan, 'The Empire under Maximilian I', The New Cambridge Modern History, I, p. 195.

of the truly religious man.¹ Gerson argued that for some "it was safer to have remained in the world".² The independence and self-assurance of the layman were increasing. When laymen were permitted to vote at the Council of Basel, the ecclesiastical world seemed to have been up-turned. The layman even found certain ways of lessening the role of the clergy and ecclesiastical institutions, even indeed that of the sacraments, and men such as John Ruysbroeck and William Langland demanded increased lay participation in the Eucharist. This, coupled with the attacks on a theological level by Wyclif and Hus on relics, indulgences and their stable companions meant that though "it may be that religiosity and ecclesiasticism can never be wholly united. By the end of the middle ages they had grown perilously apart".³ Hus had himself maintained that God had "hidden the way of truth from the wise and prudent and revealed it to laymen".⁴

Thus at a time when the Church was about to meet its greatest challenge, it was weakened in a multitude of ways. In every sphere it appeared that the layman and secular society were becoming increasingly assertive. The heightened religiosity of the educated and indeed uneducated layman, who sought to save his soul, contributed to the anti-clericalism which was a feature of the period. This was harnessed as an ally by the monarchies and nobility of Europe, who sought to establish local control over the segments of the universal Church. All over Europe and in almost every sphere of ecclesiastical life it was the increasing

1. M. Aston, The Fifteenth Century. A Prospect of Europe, p. 160.

2. Cited by M. Aston, ibid., p. 156.

3. Ibid., p. 173.

4. Cited by M. Aston, ibid., p. 147.

assertiveness of the layman and his intrusion into ecclesiastical affairs which was the dominant theme. However, the princes and aristocracy could not openly attack and destroy the crumbling edifice without attacking the whole social order, an unthinkable move, which would have undermined their own position. Indeed paradoxically, they could constitute the chief bulwark of conservatism in the Church. A glance at the social background of the German, and indeed Scottish bishops, in the late fifteenth and early sixteenth centuries will indicate why this is the case. The aim of monarchy and aristocracy was not to destroy but to exploit the Church and it is this exploitation which is the basic theme of this thesis.

THE HISTORY OF THE UNITED STATES

The history of the United States is a story of growth and change. It begins with the first settlers who came to the shores of North America. These settlers were men and women who sought a new life, a new land. They brought with them the knowledge and skills of their ancestors, and they began to build a new society. Over the years, this society grew and changed. It became a nation of free men and women, a nation that valued liberty and justice for all. The history of the United States is a story of the struggles and triumphs of a people who have built a great nation out of a small group of settlers.

The history of the United States is a story of the struggles and triumphs of a people who have built a great nation out of a small group of settlers. It is a story of the men and women who have shaped the course of the nation, from the first settlers to the present day. The history of the United States is a story of the values and ideals that have guided the nation, from the founding of the country to the present day. The history of the United States is a story of the challenges and opportunities that the nation has faced, from the early years of settlement to the present day.

CHAPTER THREE

The history of the United States is a story of the struggles and triumphs of a people who have built a great nation out of a small group of settlers. It is a story of the men and women who have shaped the course of the nation, from the first settlers to the present day. The history of the United States is a story of the values and ideals that have guided the nation, from the founding of the country to the present day. The history of the United States is a story of the challenges and opportunities that the nation has faced, from the early years of settlement to the present day.

1. The first settlers who came to the shores of North America.
2. The growth and change of the society over the years.
3. The struggles and triumphs of the people who have built the nation.
4. The values and ideals that have guided the nation.
5. The challenges and opportunities that the nation has faced.

THE PRESENT STATE OF KNOWLEDGE OF THE OFFICE OF BAILIE

"The influence wielded by the 'high steward' on the management of late mediaeval monasteries has still received less attention than it deserves",¹ a recent writer on monastic history stated rather tamely. In fact it has received almost no attention at all. Apart from the passing observations of a few more perceptive historians, nothing has been written on the subject and no detailed research has been undertaken. There are no entries on the subject in any of the great ecclesiastical encyclopaedias.² Knowledge of the office, its functions and potentialities is therefore slight.

However, the office does seem to have been in existence in all European lands, though the scope of this study could not include any in-depth appraisal of this. The most striking illustration of the universality of the office is provided by the text of Guy Marchant's edition of the "Danse Macabre" of 1485.³ The cast of the dance are at one point portrayed in a tabular representation of the social structure of late mediaeval society. Thirty figures are arranged in fifteen pairs, representing the vertical division of society into layman and cleric, and the horizontal divisions of the different social classes. These range from the Pope and Emperor at the top of the hierarchy to the clerk and hermit at the foot. But for the purposes of this study the first seven only need be outlined.

1. R.B. Dobson, Durham Priory 1400-1450, p. 125.

2. Catholic Encyclopaedia; Dictionnaire de droit canonique; Enciclopedia Cattolica; New Catholic Encyclopaedia.

3. La Danse Macabre des Charniers des Saints Innocents a Paris, ed. E.F. Cheney.

le pape, l'empereur
 le cardinal, le roy
 le patriarche, le connestable
 l'archevesque, le chevalier
 l'evesque, l'escuyer
l'abbe, le baillif
 l'astrologien, le bourgeois¹

Thus just as the Pope and Emperor are regarded as natural and associated equals, so too the abbot and bailiff are similarly regarded. What is of even greater significance, however, is the fact that it is assumed that the reader or listener would immediately recognise the figure of the bailiff and grasp the force of the comparison. This would appear to indicate that the bailiff was a figure known and accepted in European society at large. Other evidence supports this. Papal acknowledgement and confirmation in common form of grants of the office is illustrative of its universality.² Reference has been made to the bailiff of the great cathedral church of Noyon in 1478,³ while there is abundant evidence for the existence of the figure in England, though once again little use has been made of this. The "Valor Ecclesiasticus" supplies the names of many monastic stewards and provides information regarding their functions.⁴ Evidence recently brought to light for the monastery of Durham⁵ re-inforces belief in the significance of the

1. La Danse Macabre des Charniers des Saints Innocents a Paris, p. 9.

2. Below, pp. 221-227.

3. D. Hay, Europe in the Fourteenth and Fifteenth Centuries, p. 48.

4. Some examination of the evidence is made by A. Savine, English Monasteries on the Eve of the Dissolution, pp. 245-60.

5. R.B. Dobson, Durham Priory 1400-1450, pp. 124-31.

office and the necessity for more detailed research.

The neglect is all the more remarkable when the potentialities of the office are realised. One historian, commenting on the English scene, stated that "stewards were chiefly, if not entirely, the representatives of monastic jurisdiction as chairmen or judges in the monastic courts".¹ Another has argued that "the most important and influential of all the Prior of Durham's secular counsellors was his steward, an officer who stood at the head of the lay servants of the monastery".² Finally to put the figure in his Scottish context, the bailie was the layman who exercised the "civil and criminal jurisdiction...which belonged to the abbot as temporal lord of the abbey lands (and) was...usually bestowed on some lay proprietor in the neighbourhood. It was an office of considerable importance on account both of the nature of its duties and of the emoluments attached to it".³

Since the early nineteenth century, when the Scottish historical clubs began in earnest the publication of ecclesiastical chartularies, historians and antiquarians have been aware of the existence and, among the more perceptive, of the importance of the official who may appear under a variety of names but is called most commonly in Latin "ballivus" and in the vernacular the "bailie". Just as little is known of the office on the continent, so little also is known of it in Scotland. In the prefaces to most ecclesiastical chartularies and registers a few words are generally devoted to the office but little is added to the general corpus of knowledge. The most recent

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1. A. Savine, English Monasteries on the Eve of the Dissolution, p. 252.
 2. R.B. Dobson, Durham Priory 1400-1450, pp. 124-5.
 3. J. Campbell, Balmerino and its Abbey, p. 221.

historian of the period devoted only two lines to the subject, stating that the "office conferred administrative control and temporal jurisdiction over the lands of a religious house and was highly coveted".¹

The debilitated and demoralised Church seemed to court disaster in placing the land - and revenue - hungry nobility of late mediaeval Europe at the head of its temporal administration. The same nobility whose greedy eyes were turned on the wealth of the Church was employed to protect it. The situation was potentially explosive. In 1445 when the monks of the abbey of Arbroath dismissed Alexander Lindsay, Master of Crawford, from the office of bailie of the monastery and he prepared to defend his position by force of arms, the monks could do naught else but employ another warrior to fight for them.² Of great relevance to this situation is the old adage "quis custodiet custodem?"

As might be expected the fortunes of many a noble family were founded upon the control of ecclesiastical estates. Whether or not, when the Reformation had run its course in those countries which renounced allegiance to Rome, Church lands were secularised into the hands of these stewards, the possession of the office for even a generation or two might prove sufficient to establish a family. The office was directly paralleled by that of the "Vogt" or "advocatus" of twelfth century Germany. As the historian of that institution has stated "the aristocratic founders (of the abbeys) or their descendants took over the position of "advocate", exercising powers which the papacy could not exercise; political control of

1. R. Nicholson, Scotland: The Later Middle Ages, p. 336.

2. Below, pp. 244-7.

monastic dependants, jurisdiction over tenants of monastic lands, governmental authority within the whole monastic property".¹ The ultimate beneficiary of that system was to be the lay nobleman. The same was to be the case in Scotland in the late fifteenth and sixteenth centuries.

1. G. Barraclough, The Origins of Modern Germany, pp. 89-90.

THE FUNCTIONS OF THE BAILIE AND THE RELATED OFFICES

As has been seen, remarkably little is known of the office of bailie or its equivalent, with the consequence that an adequate definition of the office is lacking. One work of reference gives two possibilities. A bailie, it maintains, was either a magistrate or an officer appointed by a precept of sasine to give infeftment.¹ The most recent attempt is scarcely more helpful in providing a basis upon which to build a more comprehensive definition and it does also incapsulate the confusion which surrounds the employment of certain words associated with monastic administration. The bailie at his most basic was "an administrative officer of a barony or a regality; a bailiff"² or more fully "an executive officer having jurisdiction in a lordship barony or regality; an official appointed by the king, bishop, abbot etc., to discharge the duties of steward or bailiff".³ It will be the contention of this thesis, that to dismiss these men merely as officials who "discharged the duties of steward or bailiff", is to underestimate greatly their power and position. Undoubtedly some bailies were indeed of that ~~variety~~, but others rose to become the proverbial "over-mighty vassals", servants as powerful as, if not more powerful than, their masters. As regards the office as it functioned in Scotland, at least, these basic statements require considerable elaboration.

The situation is complicated by the lack in the English language of any commonly accepted word to describe satisfactorily the figure under investigation. One author speaks of the "seneschal or bailie"

1. Bell's Dictionary and Digest of the Law of Scotland, ed. G. Watson, p. 84.

2. Dictionary of the Older Scottish Tongue, ed. W. Craigie, p. 165.

3. Ibid., p. 166.

of Jedburgh and of Melrose,⁴ while another refers to the office of "bailiary or justiciarship"⁵ as if these words were synonymous. Partly this is due to the difficulties in defining precisely an office which was undergoing extensive development and change. Partly it is due to the considerable overlap between the functions of the various monastic officers, a problem which will be examined in depth at a later stage. But principally it is due to the carelessness with which modern historians employ the word "steward" to denote almost any leading monastic lay official in relation to the administration of ecclesiastical estates.

For the sake of clarity, let it now be stated categorically, that, in the Scottish context, the correct translation for the Latin word "seneschallus" is in English "steward", while the correct translation for the Latin word "ballivus" is in English "bailiff" and in Scots "bailie", and these alone. When, therefore, in relation to the Scottish abbey of Newbattle, one translator rendered into English the phrase "certum officium seculare ballivatus nuncupatum" as "a certain secular office called the stewardship", he was merely adding to the confusion already in existence.³

However, the situation is further complicated by the fact that in England the official who was the direct equivalent of the Scottish bailie and not the more menial steward⁴ may be correctly referred to as the "chief steward" (capitalis seneschallus), while his subordinate officer could be termed "subseneschallus, deputatus seneschallus, seneschallus possessionum"⁵. The earl of Shrewsbury was "chief steward" to no fewer than eleven monasteries,⁶ though in

1. J. Morton, The Monastic Annals of Teviotdale, pp. 24, 242.

2. R. Nicholson, Scotland: The Later Middle Ages, p. 336.

3. C.P.L., X, pp. 570-1. *It should be remarked that the translator was English.*

4. Below pp. 59-65.

5. A. Savine, English Monasteries on the Eve of the Dissolution, p. 253.

6. Ibid., p. 251.

the monastery of Hexham the equivalent officer was termed either steward or bailiff.¹ While, therefore, it may be correct to refer to the official under examination in the English context as the "steward" this, it will be shown, would be totally wrong in the Scottish context in the fifteenth and sixteenth centuries.

The situation is further complicated by the existence of offices which were related to, and may have been the equivalent of the office of bailie, in particular with regard to the defence of the Church and its property. In 1470 David Stewart, bishop of Moray, appointed James Stewart hereditary constable to his castle of Spynie,² and in 1475 that figure was still in evidence,³ while in 1478 his neighbour, William Mudie, bishop of Caithness, appointed Gilbert Mudie to guard and administer (ad custodiam et gubernationem) his castles and lands of Scrabster and Skibo, and to defend his lands and churches in Caithness and Sutherland.⁴ In 1502 George, bishop of Galloway, appointed Patrick Dunbar and his heirs castellans and keepers of the palace and fortalice of "Balnespyk" and of the Church of Candida Casa.⁵ In 1540 John Macilravie (Makilreve) was the "guardian and administrator" (custos et administrator) of the chapel of B.V.M., called the "Casteldikis".⁶ In 1541 Archibald Stewart of Fentelicht, *a layman*,⁷ in the name of William Stewart, bishop of Aberdeen, warned John Cunningham to remove himself from the office of sacristan of Lincluden Collegiate Church,⁷ and in March 1545/6 Margaret Home, prioress of the nunnery of North Berwick, together with the auditors of the convent, discharged Alexander Home, her brother, of his

1. R.B. Dobson, Durham Priory 1400-1450, p. 125.

2. R.M.S., II, 1051.

3. S.R.O., Mackintosh: GD176/10.

4. R.M.S., II, 1404.

5. S.R.O., Galloway Chrs: GD138/11.

6. R.M.S., III, 2083.

7. Prot. Bk. Carruthers, no. 86.

intromissions with the rents and profits of the abbey.¹ But most interesting of all was the appointment in March 1523/4 "of ane gentill man within the said plaice of Coldinghame, quhilk sall have the haile cur of the men of the barony and at pertenis to the said plaice and to ansuer to my lord lewtennent and his deputis in all thingis concerning the commone wele of the realm".² As will become clear, all the above officials were discharging functions which were associated with the office of bailie, while the latter personage must have been bailie in all but name. There are, therefore, no clear-cut divisions between the office of bailie and a multitude of others, and cognizance must be taken of this fact.

Though confusion may reign over the precise definition and functions of the office, it is clear that it was not merely convenience which prescribed the employment of bailies by the Church, though that was an element. Mediaeval society in theory and in practice was divided into two spheres, that which pertained to the cleric and that which pertained to the layman. As the text of the "Danse Macabre" has shown, this division was vertical rather than horizontal.³ These spheres were not precisely defined, but the people of the time did possess some notion as to their extent, and it was, therefore, an accepted norm that the abbot of Inchaffray, when granting the bailiary of that abbey to Laurence, Lord Oliphant, in 1469 should promise that he would "no wirk...ony...thingis belangin the consaill of ane temporale man without consent and assent of the said lord".⁴ The layman had a role to play in society, and it was one which should not be usurped by any ecclesiastic.

1. S.R.O., Hume of Marchmont: GD158/250.

2. Acts of Council (Public Affairs), p. 198.

3. Above p. 14.

4. Inchaffray, pp. 159-60.

Evidence regarding the extent of the ecclesiastical jurisdiction as it existed in Scotland is extant in the form of conciliar prohibitions to the Scottish clergy. As early as the thirteenth century a Scottish Church council decreed that "no soldier of God should involve himself in secular business transactions",¹ and another of the same period prohibited the holding of secular offices or the engaging in trade.² This theme is still evident at the end of the middle ages, when the General Council of 1549 decreed that "no cleric having the means of an honourable livelihood should engage in secular pursuits".³ Indeed much business between the monastery and the outside world was conducted by laymen. Ecclesiastical procurators to parliament tended to be laymen.⁴ In 1494 a number of noble laymen were appointed procurators by the abbot of Arbroath to appear before the justice-ayre at Perth,⁵ and in 1526 to appear before the ayres at Perth and Dundee.⁶ The establishment of a clerical caste, which was the aim of the Gregorian Reform Movement, necessitated the abdication by the clergy of certain privileges, which now pertained solely to the layman. Just one of these was the right to monopolise the occupation of secular offices.

However, the Church possessed an abundance of lands and wealth, which had to be administered and governed. The administration of these lands was avowedly a secular office (*certum officium seculare ballivatus nuncupatum*),⁷ and so it was the very stance of the Church, itself, which necessitated the employment of laymen to perform the functions of estate management.

1. Patrick, *Statutes*, p. 16, no. 22.

2. *Ibid.*, p. 65, no. 127.

3. *Ibid.*, p. 92, no. 175.

4. Kelso, nos. 540-4.

5. *Arbroath*, II, no. 348.

6. *Ibid.*, no. 638.

7. *C.P.L.*, X, pp.570-1.

Estate management was not the only burden which came with the possession of lands. Lands carried jurisdiction, and in Scotland, as will be seen, this jurisdiction could be extensive. Canon law forbade the participation of any cleric in any action which might involve the drawing of blood. These included homicide, serious mutilation, serious wounding, serious violence, successful abortion, suicide, duel and the exercise of medicine or surgery.¹ There is evidence in Scottish sources of the effect of these general prohibitions. One surviving statute of the Church prohibited the holding of secular cases in which a judgement of blood was involved in churches,² while another specifically forbade any churchman to dictate or write a sentence involving the shedding of blood.³ In 1519 the bishop of Aberdeen made a statement to the effect that the clergy "may nocht nor will nocht consent to na blud",⁴ while in 1535 it was specifically because the masters of girths were spiritual men and because many of the crimes committed by felons, who sought sanctuary in the girths "tended to blood", that felons were not being handed over to the crown for justice.⁵ This does appear to be one of the few injunctions to which the late mediaeval cleric adhered with any semblance of rigidity, as is indicated by the supplications for dispensation for breach of it which are extant.⁶ Both barony and regality courts could in certain instances impose the death penalty and it was this which necessitated the employment of laymen to control the administration of justice. When, therefore, in 1535 William Colmalegy sat as judge in the court of William,

1. Dictionnaire de droit canonique, ed. R. Naz, VII, pp. 871-2.

2. Patrick, Statutes, p. 40, no. 68.

3. Ibid., p. 65, no. 128.

4. Acts of Council (Public Affairs), p. 143.

5. Ibid., p. 414.

6. Register of Supplications: vol. 416, fo. 213v; vol. 470, fo. 183; vol. 640, fo. 186.

bishop of Aberdeen, to deal with a case involving the shedding of blood,¹ he was performing a function which no cleric could with clear conscience perform.

As ever in the middle ages, practice tended to diverge from theory and the very need for the promulgation of such statutes shows that clerics did indeed perform functions which pertained to the lay sphere. It is, therefore, no surprise to find William Meldrum, chanter of Brechin, commissioned by the bishop in 1512 to repledge citizens of Brechin from the chamberlain ayre to be held at Dundee.² More surprising, in the light of what has been said thus far, is it to find sir John Tyrie, provost of the collegiate church of Methven, appointed bailie of that church in 1499³ and 1505,⁴ and Mr. Roger Cairns, vicar of Dumfries, appointed bailie of the lands of "Colinhath Rig" in 1471 by the bishop of Glasgow, in terms identical to those of other grants of the office.⁵ These cases were clear breaches of canon law, apparently sanctioned by the ecclesiastical authorities. In other instances, where the law was breached, the Church sought to punish the offenders. Archbishop Andrew Forman, at some time during the period 1514x1521,⁶ ordered the recall to the cloister and the punishment of certain religious of Arbroath Abbey, who during the vacancy, had gained possession of unspecified temporal offices and had alienated the fruits and lands in breach of their

1. Prot. Bk. Cristisone, no. 154.

2. S.R.O., Dalhousie: GD45/13/304.

3. The Provosts of Methven, ed. T. Morris, p. 34.

4. Ibid., p. 34.

5. S.R.O., Broughton and Cally: GD10/5. He was to hold courts over the inhabitants of the lands, to punish delinquents, to raise escheats and amercements, to grant sasines and hereditary infeftments after death, to repledge and to do all else that pertained to the office of bailie.

6. The document is not dated, but must lie within the episcopate of Andrew Forman from 1514-21. (Watt, Fasti, p. 296).

profession.¹ This document speaks only in general terms. More pertinent to this study in emphasising the need for the employment of bailies in particular, was the injunction of the abbot of Melrose on visitation to the monastery of Holm Cutram in 1472. The abbot reminded the monks that the canons of the monastic rule were designed to keep them separate from the world, and that they prohibited the participation in secular business by regulars. He, therefore, enjoined that no professed monk should exercise any secular office of bailie or forestership (*aliquis ipsius professus ballivi vel forestarii officium...secularium...exerceat*), further stipulating that a certain brother, John Ribtoun, who had some unspecified secular employment, should renounce it.² One contemporary historian fully grasped the point at issue. George Buchanan in his "History" specifically stated that the clergy employed a bailie, as they were forbidden to intermeddle with civil affairs (*quoniam monachis, de civium causis statuere, religio est*).³ In toto, therefore, it might well be argued that it was a fatal flaw in canon law which in the long term undermined the strength of the Church.

The assumption by the layman of the burdens of estate management was not merely on his part a matter of convenience or profit, it was also a duty, and attracted though he undoubtedly was by the prospects of controlling, if only by proxy, some measure of ecclesiastical jurisdiction, the late mediaeval nobleman had deeper and more theoretical pretensions. It had been his own predecessors, who had endowed the Church with lands, and it was he, as the representative of the regnum, whose duty it was to protect the sacerdotium. The

1. St. Andrews Formulare, I, no. 48.

2. Melrose, II, no. 577.

3. G. Buchanan, Rerum Scotticarum Historia, p. 111.

notion that the nobleman was the natural guardian of the wealth of the Church, which was in any case held in trust for Christ's poor, was widely held in late mediaeval Europe, and found its echoes in Scotland. One Scottish political theorist of the period incapsulated this belief when he reminded the nobility of their responsibilities, declaring that "they would have to render an account to God for the Church, whose guardians they are by Christ's appointment".¹ Another historian of the period propounded the same idea in a slightly different context, when he in his turn reminded the nobility of Scotland that their consciences would "one day be compelled to acknowledge that the reformation of religion and of public enormities doth appertain to more than to the Clergy or chief rulers called Kings".²

On both sides, therefore, on the side of the ecclesiastic and of the layman, it was accepted that the latter should participate in the management of the temporal affairs of the Church. Over this there was no disagreement. Where disagreement arose was with regard to the degree of control which the layman should exercise. The history of the participation of the layman in the Church in the fifteenth century was to be that of ever increasing dominance.

Thus far attention has been drawn to the difficulties surrounding the usage of the word "bailie" and to the absolute necessity for the employment by the Church of lay administrators but little attempt has been made to secure an adequate definition of the office, or to outline the functions which the bailie performed. Basically there are three ways to determine precisely what role the bailie actually

1. J. Major, A History of Greater Britain, p. 148.

2. John Knox's History of the Reformation in Scotland, ed. W.C. Dickinson, I, p. 135.

played in the running of the ecclesiastical estates. First of all, much may be learned from the specification of duties as outlined in the grants of bailiary. This may be supported by the justifications outlined by the granting bodies in the same sources. These two methods tend to provide the theory behind the office, theory which may be supplemented by an examination of the actions performed by the bailies in reality. But first something should be said of the etymology of the word "bailie".

The dictionaries and encyclopaedias are in general agreement over the etymology of the Latin word "ballivus", the English word "bailiff" and the Scots word "bailie". The word "ballivus" is derived from the Old French word "baili(f)"¹ from which are also derived the English "bailiff" and, consequently, the Scots "bailie". The French word "bailli(f)", in use from the twelfth to the seventeenth century, was itself derived from the classical Latin "bajulus", a porter.² "Bajulus", which incidently du Cange regarded as a synonym of "ballivus",³ may be derived from Greek,⁴ though one authority maintains that the etymology of the word is unknown.⁵ The word has, therefore, a long history, but most important for the purposes of this work is the fact that the Scots word "bailie" is

1. Mittellateinisches Worterbuch, Band I, p. 1323.

2. Dictionnaire d'ancien Francais Moyen Age et Renaissance, pp. 50-1; Dictionnaire alphabetique et analogique de la langue francaise, I, p. 389.

3. Glossarium mediae et infimae Latinitatis, ed. C. Du Fresne, Seigneur du Cange, I, p. 527.

4. Lateinisches etymologisches Worterbuch, I, p. 93.

5. Dictionnaire etymologique de la langue Latine, I, p. 64.

derived from the Old French word for "an officer, an official occupied in the administration of justice".¹ As will be seen, the office retained many of these characteristics when it appeared in later mediaeval Scotland with regard to the administration of ecclesiastical estates.

The bailie or bailiff was a figure by no means confined merely to Scotland and in the wider as well as the more local sphere it is clear that the essence of the office was legal. The bailie was in essence a judicial figure. This is well illustrated by two verses of the already mentioned "Danse Macabre". The bailiff "qui savez qu'est justice et haulte et basse, en mainte guise, pour gouverner toute police" was himself summoned to answer for his deeds before the "great judge".² He, who was honoured among judges (entre juges honneur avoye),³ found himself unable to escape this final judgement. It is the irony of the powerful earthly judge having himself to be judged by God which the author principally hoped to portray, but these lines do also illustrate that to the society of the time the office of bailiff was essentially a judicial and legal one. Further foreign information emphasises this. Speaking generally of the situation as it existed in England in the early sixteenth century one historian has commented that the "stewards were chiefly, if not entirely, the representatives of monastic jurisdiction as chairman or judges in the monastic courts".⁴ This is confirmed by the letters of appointment of William of Hoton as steward of Durham in 1437, which stressed his duties as president of the prior's manor courts.⁵

1. Dictionnaire d'ancien Francais Moyen Age et Renaissance, p. 51.

2. La Danse Macabre des Charniers des Saints Innocents a Paris, ed. E.F. Cheney, p. 25.

3. Ibid.

4. A. Savine, English Monasticism on the Eve of the Dissolution, p. 252.

5. R.B. Dobson, Durham Priory 1400-1450, p. 126.

Similarly in Scotland the essence of the office was legal, for it was the bailie who, in general, exercised the rather extensive jurisdiction which pertained to the jurisdictional franchises. In Scotland the fifteenth century saw the rise of the regality to become the dominant factor in the jurisdictional framework of the bulk of the country with grants "*in liberam regalitatem*" becoming common. The bailie and the regality were inseparable, and something should consequently be said of the jurisdiction which pertained to the regality and to the bailie.

The Scottish state in the fifteenth century was a kingdom, which meant that ultimately the king and no other was responsible for the government. Mediaeval constitutionalism, however, was subject to a number of conventions. Limitations were put upon the exercise of monarchical powers and insofar as these had a tangible institutional form they were, to a large extent, embodied in a degree of local or sectional autonomy. Government of the kingdom was shared with other elements, especially with the feudal nobility, the burghs and the Church. By the fifteenth century the principal method of power sharing was the jurisdictional franchise.

The greatest franchise was the regality, and in civil matters the lord of regality had jurisdiction equal to that of the sheriff. The regality chancery issued brieves of inquest, terce, tutory, idiotry, sasine and perambulation and the inquiries which followed were held in the regality court, which then proceeded to serve precepts and make retours. The regality court also had the right to repledge and to try actions of spuilze and ejection. In addition, there were a host of actions, appraisals, marriage without consent etc., which formed the staple fare of the regality bailie court. In

criminal matters the regality had jurisdiction equal to that of the justiciar, and sometimes enjoyed the right to try the four pleas of the crown—rape, murder, fire-raising and robbery.

The lower franchise was that of the barony and actions which came before the baron court fell roughly into three categories: civil, criminal and actions relating to the "weill of the tenandis and keiping of gude nichtburheid". In its civil jurisdiction the court was primarily concerned with actions of petty debt, possessory actions and lawburrows, and the quasi-criminal actions of breach of arrestment, blood-wite and deforcement. The criminal jurisdiction was confined to theft and slaughter, where the culprit was caught red-handed, while into the third category fell a wide variety of cases: disputes between tenants, rights of pasture, overpasturage etc.¹

These then were the jurisdictional powers, which were granted by the Scottish king to his subjects in what must have been one of the most highly devolved forms of government in the Europe of the time. The baron court was on occasion presided over by the baron himself or, more usually, by his bailie or two or more bailies, while the regality court was generally presided over by the bailie and his depute or deputies. Powers of barony and regality were granted to laymen and ecclesiastics alike. In the case of a lay barony or regality the option did lie open to the possessor of the jurisdiction to exercise that jurisdiction himself, though due to its time-consuming nature, he tended to delegate the powers to his

1. The above outline of Scottish jurisdictional practices owes much to the article by P. MacIntyre, 'The Franchise Courts', Stair Society, XX (1958), pp. 374-83, and to the teaching of Mr. R. Cant, former reader in Scottish History in the University of St. Andrews.

bailies. However, in the case of an ecclesiastical franchise, for the reasons which have already been outlined above, this was not in general feasible. The Church, given the social and jurisdictional norms of late mediaeval Scotland, was unable to avoid the employment of bailies in the management of its estates.

The powers outlined above were those which an ecclesiastical bailie in fifteenth century Scotland might exercise. As indicated, these would vary depending upon the jurisdictional status of the franchise. The bailiary of an ecclesiastical barony would not, therefore, be as attractive to an ambitious nobleman as that of an ecclesiastical regality. In assessing the powers of a particular bailie, cognizance must be taken of this fact. While the estates of the abbeys of Coupar-Angus, Arbroath, Dunfermline, Holyrood, and the border abbeys, to name but a few, were jurisdictional regalities, others such as the estates of Kinloss, Pittenweem and Glenluce, and almost all the detached estates such as Barry, Musselburgh and Lesmahagow were baronies.¹ The powers of action of the bailies of the latter estates were considerably more circumscribed than those of their jurisdictional superiors.

The degree to which the heart of the office was legal is brought home by the diplomatic form of the grants of bailiary which are extant. The precise terms of these grants did vary but their essence was always the same - the outlining of the judicial duties incumbent upon the officer, that he was "balze curtis for to hald...for ministratioune of Justice".² The texts of the legal section of two fairly typical grants of the office, one in Latin, the other in the vernacular, are given in full below and well illustrate the point at issue.

1. For further information see Appendix I.

2. Inchccclm, no. LVIII.

The first extract is taken from the grant of the bailiary of the barony of Barry in 1506 to Sir Thomas Maule of Panmure upon whom was conferred:

"plenariam et omnimodam potestatem et mandatum speciale et expressum, pro nobis et in nomine nostro, curias justiciarias dicte nostre baronie assignendi, inchoandi, tenendi, affirmandi et continuandi ubilibet infra dictam nostram baroniam, tocies quociens opus fuerit et ei videbitur expediens, officarios quoscumque pro administratione justicie creandi, sectas vocari faciendi, justitiam partibus conquerentibus ministrandi, transgressores delinquentes et absentes puniendi, amerciamenta et eschaetas levandi, et ad usus nostros importandi...homines nostros et eorum bona et catalla coram quibuscunque iudicibus aut quocunque iudice et locis fuerint attachiati seu attachiata, arrestati seu arrestata, ad libertatem nostri monasterii replegiandi, repetendi et reducendi, plegium seu plegia desuper porrigendi, wardas et judicia petendi et eadem, si necesse fuerit, continuandi et falsandi, iudicem, curiam, processus curie ac ministros recusandi et declarandi et pro iure nostro protestandi, ac omnia alia et singula generaliter et specialiter in iudicio et extra faciendi, que ad officium ballivi de jure pertinere dinoscuntur".¹

Some five years later in 1511 the bailiary of the barony of Barry was again granted to Sir Thomas Maule. In this instance the abbot and convent of the monastery of Balmerino granted:

"to the said our bailye, his deputs, ane or may, our full powir and strait commandment our courts of our foresaids lands to hald, begyn and affirm, soyts to gar call, absents and transgressors to

1. Panmure, pp. 269-70.

falt and punysh, escheatments and unlays to lift and raise, and the said courts to continue als oft as is needfull, and to creat and mak all manners of officiars concerning the administration of the saids courts, and gif it sall happen ony of our tennants of our said lands to be (escheitit or arrestit) befor ony juges temporale or spirituale, to replage them to the privileges of our said barony, colorach to find, and all and sundry things to exersh and use, that to the office of balyery pertains or is knawin to pertain of law or consuetud".¹

This portion of the grant generally introduced the heart of the document, the delegation of power to hold courts of the barony or regality on behalf of the institution. The bailie was empowered to hold courts as often as was necessary and to begin and end them as he saw fit. The full responsibility for the implementation and administration of justice on the ecclesiastical estate was placed in his hands. There is indeed evidence to show that this was a duty which occupied, in all probability, a considerable proportion of the time of the bailie. Documents are extant, which indicate that the principal temple courts were held at Liston in 1459 "per fratrem Henricum Preceptorem et Edwardum Lewyngstoun suum ballivum"² and in 1461 "be Eddwart of Lewynston, belze of that Ilk".³ In 1493 the bailie court of the abbey of Arbroath was held by James, Lord Ogilvy.⁴ On 6 May, 1524 the head court of the bishopric of Aberdeen was held at the episcopal palace in the presence of Gavin, bishop of Aberdeen, "per Johannem Ruthyrfurd militem ballivum episcopatus

1. Panmure, p. 280.

2. H.M.C., Various Collections, V, p. 80.

3. Ibid., p. 81.

4. Arbroath, II, no. 349.

eiusdem".¹ The only evidence of the existence of a bailie of the priory of Pittenweem to be found in the period under consideration is an extract of the court of the priory held by Thomas Knightson, bailie-depute of the priory, on 7 February, 1540.² Ample evidence is extant for the holding of the bailie court of the regality of Coupar-Angus.³ George Kincaid, as bailie of the barony of Broughton for the regality of Holyrood spent much of his time in the running of the courts of the regality.⁴ But most conclusive is the evidence afforded by the court book of the regality of Dunfermline, which is extant for the years 1531-38.⁵ Doubtless Archibald Betoun, the bailie of the regality, was not typical of the late mediaeval bailie, with his great administrative abilities, but of the forty-seven courts recorded on the roll over a period of seven years, he presided over no fewer than thirty-five.⁶ The court duties, if not predominant, were certainly pre-eminent. That is not, of course, to say that the bailie always fulfilled his duties. A royal letter of 10 January 1526/7 stated that David, abbot, and his predecessors of Arbroath, "and the bailze of the said regalite hes negligently pretermittit to hald the justice air of thair said regalitie for punyssing of trespassoris and ministratioun of justice therein efter our last justice air haldin within our sherefdome of forfar as they aucht to have done".⁷ The emphasis, however, was on the performance of legal duties.

1. Aberdeen, I, p. 389.

2. Records of the Priory of the Isle of May, ed. J. Stuart, appendix to preface, p. cv.

3. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, pp. XXV-XXXII.

4. Prot. Bk. Young, nos. 18, 78, 171, 189, 492, 851, 998, 1118, 1188, 1289.

5. Dunfermline Court Bk., passim.

6. Ibid., pp. 41-153.

7. S.R.O., Register House Charters: RH6/1002A.

In general, the grants went on to specify more fully the actual duties and obligations of the bailie in the conduct and running of the court. He was empowered to call suits, to amerce absentees, and to punish wrongdoers. In addition he was often empowered to poind and distrain the goods and lands of the tenants and inhabitants of the bailiary. In almost every instance the bailie was empowered to repledge from other jurisdictions the goods and chattels, tenants and inhabitants of the bailiary to his own franchise, leaving with the legal officer from whom the people or goods were repledged a caution of colreach, or pledge that justice would be done. In this way the rights of the franchise could not be infringed and the profits of justice lost to another.¹ The actual implementation of the powers of jurisdiction inherent in the franchise were his duty.

As regards the smooth-running and functioning of the court the bailie was generally empowered, though not in the grant of 1506, to appoint deutes and all the other officers of the court, such as mairs, serjeants and dempstars. At a later stage more will be said of these powers² but that of the appointment of deutes was particularly important. As will become clear, most of the bailies under consideration were of noble stock, and their appointment as bailie of an ecclesiastical estate must have been regarded as something of a sinecure. Often, due to other commitments and to their social position, they could and would not hold the bailie courts in person. For this reason the power to appoint deutes was an absolute necessity. Justice had still to be implemented, and in

1. For text of this lengthy footnote see page 77.

2. Below pp. 74-6.

most instances this was most probably done by means of these deputies.

The additional task of collecting the profits of justice, the amercements and escheats, was generally performed by the bailie. On occasion a proportion of these profits was granted to the bailie as part of his fee but this was unusual. In general, it was specifically stated that the revenues raised were to be delivered to the abbot and convent. This whole question will be dealt with in considerably greater detail in the final chapter.¹

Lastly the bailie was empowered in general terms to do all that was associated with the office. This stipulation was of course mere common form, but it is of significance, insofar as it indicates that by the period under consideration the office was well established and that it was recognised which functions did in fact pertain to the office. The development of common form is an indication of stability and acceptance. Indeed the judicial section of the grant itself developed a common form. This has led compilers of documentary calendars to omit this section, as is often the case with the printed version of the register of the great seal of Scotland, but if the original manuscript form is examined, a full and balanced appreciation of the grant may be gained.² Be that as it may, it is clear that the legal section forms the heart and essence of the bailie's office, and the common denominator of all grants of bailiary.

In the early period the performance of legal functions constituted the most important duty of the office, though the bailie

1. Below pp. 283-92.

2. In the period under consideration the following charters had their legal sections omitted in the printed version of the Register of the Great Seal: R.M.S., II, nos. 859, 2162; III, nos. 1885, 1220, 2993, 3030. The manuscript is held in the S.R.O.

might also be employed as something of a general factotum. Certain of the bailies in the period under consideration never rose above this standard, as will become clear. But the bailie also spent a considerable proportion of his time in the granting of the sasine of lands. Indeed one of the definitions of the office offered by a legal authority was that the bailie was "an officer appointed by precept of sasine to give infeftment".¹ This is borne out by the grant of the bailiary of the lands of "Colinhath Rig" to Roger of Cairns in 1471. There he was specifically empowered to grant sasines and hereditary infeftments.² On many occasions bailies are found performing this function. In 1458 John Schoriswood, bailie of the "Domus dei de Brechin", granted the sasine of certain lands.³ Six years later Walter Dempster, bailie of the bishop of Brechin, gave sasine of a tenement.⁴ In 1481 David Stewart, bailie of James, abbot of Culross,⁵ in 1487 John Kennedy of "Knockerbaulk", bailie of the prior of Whithorn⁶ and in 1542 John Bannerman, bailie of the regality of Dunkeld,⁷ are all found granting sasine of ecclesiastical lands. But possibly the clearest illustration of all was the career of George Kincaid, the bailie of the barony of Broughton for the monastery of Holyrood. Of the one hundred and thirty references to him in his position as bailie in the Protocol Book of James Young (1485-1515), no fewer than one hundred and fourteen were concerned with the granting of sasine.⁸ Though this may not have occupied ninety per cent of his time, more than ninety per cent of his actions were concerned with this process.

1. Bell's Dictionary and Digest of the Law of Scotland, ed. G. Watson, p. 84.

2. S.R.O., Broughton and Cally: GD10/5.

3. Brechin, II, no. LIII.

4. Ibid., no. LVI.

5. S.R.O., Douglas GD98/VI/1.

6. S.R.O., Ailsa: GD25/1/147.

7. Laing Charters, no. 461; Laing Charters, 690 Box 20.

8. Prot. Bk. Young, passim.

However during the fifteenth century the status and importance of the office changed. In the earlier period the bailie gives the impression of having been a man of relatively low social origins, one who was employed primarily because of his capacity to administer justice to those under the jurisdiction of ecclesiastical landlords, and to perform any other duties which might have been added to his remit. He was essentially a subordinate officer of benefit to the abbey and under its control. This is well illustrated by the words of the prior of Durham on the death of his steward, William of Hoton, in 1446, when he declared that "this deede is to me and my brether... the most hevynesse and losse of oon that ever befell to us or to the Monastery of Durham".¹ The importance of the office of steward was emphasised by the appointment of another the very next day.² In Scotland in certain cases, dependent largely upon the relative strength and independence of the abbey concerned, the bailie did remain a functionary of this variety throughout the period under consideration. George Kincaid and Oliver Brown, the bailies of the regality of Holyrood and Archibald Betoun of Capildray, the bailie of the regality of Dunfermline, always remained essentially the functionaries of the abbey.

But significant change was in the air, change which was linked to the social, political and jurisdictional changes of the fifteenth century. Often the institutional historian is faced with the development of an office, before a name has been applied to it. In this case the office already had a name, but the basic raison d'etre

1. R.B. Dobson, Durham Priory 1400-1450, p. 126.

2. Ibid.

changed. As the regality became the principal jurisdictional unit in the country, so the power of the bailie, who controlled its courts, increased. The office was now more lucrative and attracted a superior class of aspirant. This development took place at precisely the same time as the power of the Church was in sharp decline. The Church became more vulnerable to physical assault and the necessity of appointing a protector of power and influence became more pressing. This, as has been seen, was a European-wide phenomenon. In England the office which was to rise in importance was that of the monastic and episcopal steward. In Scotland, because of the particular jurisdictional peculiarities of that country, it was to be the office of bailie which was to rise in significance. In England in the late fifteenth century there does seem to have been some sort of scramble on the part of the different ecclesiastical institutions to secure the protection of powerful men¹ and a similar process is observable in Scotland. In this way the whole scope of the office of bailie tended to change, and as far as the Church was concerned, to assume alarming proportions.

Gradually as the power of the Church declined, the importance of the office of bailie changed. The essence of the office, as has been seen, was and remained legal but this tended to be superceded by the function of the bailie as a physical force behind the ecclesiastical administration. The bailie tended to become primarily the defender and maintainer of the rights of the Church, a function which could be expressed in a number of different ways.

The bailie was often employed as the physical force behind the ecclesiastical administration who ensured, by his powers of

1. A. Savine, English Monasticism on the Eve of the Dissolution, p. 251.

compulsion and intimidation, that dues and duties, owed by the tenants and inhabitants of the church lands were paid. Hugh Campbell of Loudoun, as bailie of the monastery of Melrose in its lands of Kylesmuir and Barmuir was by the terms of his appointment "to supplie and mantein the foresaid reverend fader and convent and ther successoris in settin and rasin of the forsayd landis and inputtin and outputtin of tenandis".¹ The bailie of the abbey of Paisley was to see that all the teinds, farms, mails, gressums, profits, duties, escheats and all other dues were to be paid to the abbot and convent "and gif neid be sall poynd and distrenze" thairfor".² There is evidence of the bailie actually performing these estate duties. The accounts for 1510 of Thomas Towers as bailie of the barony of Dunkeld within the bounds of Auchtertool,³ and those of John Broun of Colstoun, as bailie of the barony of Aberlady, again for the regality of Dunkeld,⁴ are extant. The stipulations in the grants of the office might be taken to infer that the bailie was merely to superintend the collection of these dues and to act only where they were withheld, and probably this was often all that was involved but it is clear that on occasion the bailie might himself be responsible for the collection and accounting of these estate dues.

Again the bailie might be called upon to implement decisions at a more mundane level, where the employment of force or intimidation might be necessary. In 1451 the bailie or serjeant of the bishop of Brechin was empowered to remove the citizens of

1. Melrose, II, no. 598.

2. Paisley, Appendix III.

3. Rentale Dunkeldense, ed. R.K. Hannay, pp. 268-9.

4. Ibid., pp. 258-60.

Brechin from the grazing of certain lands.¹ In 1510 Laurence, Lord Oliphant, was requested by the abbot and convent of the abbey of Inchaffray to compel his cousin to pay his rents to the abbey, though this was not specifically stated to be due to his position as bailie of the abbey.² Possibly all that was hoped for was that Oliphant would have some influence with his cousin. And in 1535 Hew Wallace of Newtown, bailie of the Hospital of Kingcase, was found to have expelled a certain bedesman of the hospital because he was "na lepir man".³ In these instances it was the powers of physical co-ercion pertaining to the bailie which were of importance.

The bailie also appears to have been duty-bound to pursue and apprehend criminals. The laird of Lochleven, as bailie of Bishop and Muckartshires (1516x21), was given a list of suggestions and instructions by Archbishop Andrew Forman about what would be done regarding the punishment of an unnamed person, guilty of the slaughter of the archbishop's serjeant, "nocht dutting bot that ye have done all maner of thingis".⁴ In 1524 the deforciers of Ormond at Coldingham were put to the horn and Home, as bailie of the priory, and the other head men of the Merse were ordered to pursue and apprehend them.⁵ The appointment of James Campbell of Lawers to the bailiary of the lands of Auchtertyre (Wouchtertiry) by the prior and convent of the monastery of Strathfillan in 1542 was specifically "for the suppression of theft and other crimes within the said lands",⁶ while in the pre-Reformation period we are told

1. Brechin, I, no. 81.

2. Oliphant p.50, no. 108; National Library of Scotland, Advocates' Manuscript, 82.2.1, fo. 4.

3. Acts of Council (Public Affairs), p. 443.

4. S.R.O., Morton: GD150/1725.

5. Acts of Council (Public Affairs), p. 211.

6. R.M.S., III, 2993.

that "quhen abbayis wes in greitter veneratioun" the bailie of the abbey of Kilwinning "had the said stepill (of the abbey) for an ward and prisoun to poneis and keip malefactouris and presowneres".¹

Finally, the bailie was found as the organiser of the military levies on the ecclesiastical estates and being, in general, a powerful nobleman, trained in the arts of war, he would be ideally suited for the task. Priests were of course forbidden by canon law to take up arms, not that this prevented them so doing. John Major stated that "Britain could show forty thousand priests, who could be matched as fighting men against a like number of men from any nation",² while John Knox, referring to the battle of Pinkie in 1547, stated that "no men were stouter than the priests and canons with their shaven crowns and black jacks".³ But in theory at least, a priest in particular, and the clergy in general, were not expected to partake of the arts of war, though ecclesiastical estates were expected to provide levies in time of war. In the 1530s ecclesiastics were ordered by act of parliament to supply weapons and men according to the size of their temporal lands,⁴ while another royal decree for the common weal of the realm and for the defence of the Borders stipulated that all the head men of the Borders, "baith spirituale and temporall", were to go to their houses and defend them against the English "that is to say the abbottis, priouris and kirkmen, under the payn of tinsell and recognicioun of thar temporale landis".⁵ It was the bailie who was to superintend and command these levies. In 1445 the king forbade the local nobility of Moray to force the tenants

1. Montgomery, I, p. XXIII.

2. J. Major, A History of Greater Britain, p. 322.

3. John Knox's History of the Reformation in Scotland, ed. W.C. Dickinson, p. 98.

4. A.P.S., II, p. 345, cap. 20; p. 371, cap. 11.

5. Acts of Council (Public Affairs), p. 198.

of the kirklands of the bishop of Moray to wappinshaws and hosting. This was to be done on the decision of the bishop and chapter, and then the tenants were to "ryss and pass with (their) auyn baleis".¹ One of the duties specified for the bailie of the abbey of Melrose was the command of the levies of the abbey in the king's army (et tunc solum per ipsorum abbatis et monachorum ballivos).² In the grant of the bailiary of the abbey of Coupar-Angus in 1539 to the family of Ogilvy of Airlie, it was stated that the bailies were to perform "servicia nostrorum tenentium tam in exercitibus Regiis quam nostris",³ while in 1544 the tenants of the abbey of Kilwinning were enjoined to obey the bailie in all hostings and armies of the queen, prince or earl on pain of amercement.⁴

As the fifteenth century progressed and respect for the Church fell, it became ever more vulnerable to physical attack. As has already been indicated, the scope of the office of bailie was changing. This change was directly linked to what might be termed the "state of the kingdom", with respect to law and order. In theory the Church was an institution of peace. One of its functions in society was the preservation of peace with the prevention and termination of wars. In the later middle ages it was this role possibly more than any other, which it fulfilled competently.⁵ Befitting an institution of peace, its buildings, scattered throughout the kingdom, were unfortified, and had not been constructed with factors of defence in mind. Often they were situated in militarily vulnerable areas. The border abbeys of

1. Moray, no. 189.

2. R.M.S., II, 142.

3. Coupar Chrs., II, no. CLXXIII.

4. R.M.S., III, 3030.

5. R.W. Southern, Western Society and the Church in the Middle Ages, p. 147.

Kelso, Melrose, Dryburgh and Jedburgh are examples of this. In consequence, the Church, more than any other institution, was vulnerable to what has been termed the late mediaeval break-down of law and order. It is not the purpose of this thesis to debate this argument with regard to the precise implications of the so-called "break-down", but what is clear, is that all over Europe the Church was suffering heavily as a result of war and crime. In Italy the city-states waged internecine war; in France the countryside was ravaged by both English and French armies, and England itself was soon to embark upon half a century of civil wars with its own "Wars of the Roses". All over Europe the Church was turning to laymen for protection, and the situation in Scotland was no different.

In contrast to most European countries Scotland was probably among the safest and most stable in which to dwell. The "quality of life" in a country, free of the prolonged ravages to which other lands were subjected, was higher than most. From 1424 onwards Scotland, save for two brief incidents, those of the elimination of the Douglas challenge by James II and the rebellion, culminating in the battle fought at Sauchieburn in 1488, was free of civil war. This is not, however, to argue that Scotland was any Utopia. The truth of the matter was far from this. All that might be argued is that it was less unstable than most countries of the period.

The principal source of social disorder was general lawlessness. As yet no adequate survey of the extent and effects of crime in late mediaeval Scotland has been undertaken, as is the case for the neighbouring kingdom of England, but the sources do indicate that there was much lawlessness in the period. By this time crimes against the Church were becoming increasingly common, and as time

passed, to judge by the selection of cases to be found in the principal source on the subject,¹ these crimes were becoming increasingly violent.

The most common crime would appear to have been that of theft. About the year 1502 a certain Adam Turnbull secured remission for the theft of sheep from the abbey of Kelso.² In the same year Nicholas Rutherford stole two horses from the prioress of Haddington.³ About the year 1508 sir Donald Moffat, chaplain, was robbed by means of "mummyng" by a certain Adam Mure.⁴ In 1511 the abbot of Dundrennan lost by theft to John Story three hundred marks and a gold chain.⁵ In 1513 Patrick Muirhead (Murhede) was charged with the spuilze of the teind ~~sheaves~~ of Stow,⁶ and in 1538 Alexander MacCulloch was found guilty of the theft of seven head of cattle from sir Adam Snerles, chaplain.⁷

Respect for the sanctity of ecclesiastical buildings had also fallen. Slaughter within churches was relatively common. About the year 1502 John Faulo in Littledean killed a man in the church of Maxton.⁸ In 1502 a certain James Rutherford was murdered in the church of Hawick.⁹ In 1512 Patrick Dunbar of Corsintoune was killed in the church of Cumnock,¹⁰ and in 1515 George Buchanan was involved in the burning of the gates and doors of Greenock and certain buildings within the lordship of Kilwinning.¹¹

Similarly respect for men of the cloth had declined and increasingly the clergy became subject to crimes of violence. In

1. Criminal Trials in Scotland from 1488 to 1624, ed. R. Pitcairn.

2. Criminal Trials in Scotland, ed. R. Pitcairn, I, pp. 34-5.

3. Ibid., p. 35.

4. Ibid., p. 51.

5. Ibid., p. 75.

6. Ibid., p. 96.

7. Ibid., p. 218.

8. Ibid., p. 31.

9. Ibid., p. 36.

10. Ibid., p. 82.

11. Ibid., pp. 232-3.

January, 1497/8 Hugh Rose of Kilravock gained remission for the slaughter of sir Maurice, a chaplain, in the church-yard of the cathedral of Ross.¹ At the end of the fifteenth century a dissident cleric hired a gunner to fire upon the residence of the dean and chapter of Dunkeld. He was only eventually halted "non Dei sed principis timore".² In May, 1536 the dean of Moray and his servants were attacked by a number of men,³ and in the same year sir John Penny, chaplain, was killed by John, Lord Lyle.⁴ In 1540 Friar Alexander Sloan (Sloune) was murdered,⁵ and in 1541 sir William Stevenson was murdered by Alexander Bains.⁶ But possibly the most startling incident of all was the murder of James Inglis, abbot of Culross, in 1531.⁷ In the "High Middle Ages", in the twelfth and thirteenth centuries, the moral leadership, which the Church gave and which earned it respect, also served in most European lands to protect it from physical attack. This certainly was the case in both Scotland and England. As ever, with such a generalisation, exceptions to the rule may be cited, but these examples were all the more horrific because they were so unusual. Possibly the most striking of all was the murder of Thomas Becket, Archbishop of Canterbury, in 1170. The horror, which the murder of this churchman generated throughout not only England but the whole of Europe, is an indication of the uniqueness of the incident. However, by the fifteenth century, respect for the Church was declining and the clergy tended to be held in disrepute, save for a few notable

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1. Criminal Trials in Scotland, ed. R. Pitcairn, I, p. 99.
 2. Vitae Dunkeldensis Ecclesiae Episcoporum, A. Mylne, pp. 56-7.
 3. Criminal Trials in Scotland, ed. R. Pitcairn, I, 176.
 4. Ibid., pp. 178-9.
 5. Ibid., p. 229.
 6. Ibid., p. 256.
 7. Ibid., p. 151.

exceptions. The Church might complain and excommunicate, but the effects of such were no longer great.

The behaviour of the clergy themselves was far from *exemplary*. The criminous clerk was by no means an oddity. In 1502 David "nagud priest" secured a remission for no fewer than five different crimes.¹ In 1528 sir David Blackadder, curate of Girvan, and William, abbot of Crossraguel, were ~~d~~elated for the slaughter of three men.² In 1533 sir John Sempill (Sympill), vicar of Erskine, was accused of being party to the slaughter of two laymen.³ In 1537 William Ker, rector of Old Roxburgh, was accused of being party to the slaughter of two laymen,⁴ and most astounding of all, an illustration of the length to which the Crown now had to go to combat clerical crime, on 28 March 1531 William Lothian, was degraded from his orders, convicted by an assize of the slaughter of James Inglis, abbot of Culross, and beheaded.⁵

The squabbles among the clergy over ecclesiastical benefices might be even more squalid. On the death of John Brown, bishop of Dunkeld, in 1515 Andrew Stewart, the postulate, took up arms against his rivals, attacking the bishop's palace (*arma cepisse et contra episcopum, ad tuendum palatium in proximo venientem enarrat*).⁶ More astounding were the benefice disputes in the immediate post-Flodden period, the most unsavoury of all being that fought over the archbishopric of St. Andrews. On the failure of Cardinal Cibo to secure the see, the three native contestants continued to fight. Andrew Forman, bishop of Moray, John Hepburn, prior of

1. Criminal Trials in Scotland, ed. R. Pitcairn, I, p. 28.

2. Ibid., p. 138.

3. Ibid., p. 163.

4. Ibid., p. 201.

5. Ibid., p. 151.

6. A. Myln, Vitae Dunkeldensis Ecclesiae Episcoporum, p. 74.

St. Andrews, and Gavin Douglas, provost of the collegiate church of St. Giles, in Edinburgh, all sought to gain the dignity. The earl of Angus supported the Douglas claimant, while Hepburn took matters into his own hands and ~~seized~~ the castle of St. Andrews, which had been held by the Douglas faction. Eventually each of the protagonists was bought off in various ways¹ but the entire episode served as an ill example to the laity at large. The Church in Scotland was vulnerable not only to the attacks of laymen, but also to those of its own clergy.²

Over-all, therefore, lawlessness was on the increase in late mediaeval Scotland, or at least the Church was coming ever more under attack. No longer was the position of a cleric sufficient to protect him from violent robbery or murder. No longer was the fabric of the Church sacrosanct. The clergy themselves on a number of occasions engaged in inter-necine struggles. But lawlessness was just one source of social disorder, which could disrupt the secure position of the Church. Another was that of political disturbance and of this there was much in the period under consideration, though, as has been commented, by English and continental standards this should not be exaggerated. It is, however, noteworthy that neither James II, James III, nor James IV died peaceful deaths, and that the death of King James V in 1542 followed upon a disastrous military defeat at the hands of the English. Between 1450 and 1542, the period covered by this thesis, there were no fewer than three periods of regency, one of them extended, with the political turmoil which such tended to produce.

1. W. Stephen, History of the Scottish Church, I, p. 495. See also The Letters of James V, edd. R.K. Hannay and D. Hay for years 1513-16.

2. The above outline should not be taken to indicate that clerical murderers and benefice struggles were unknown before this period. Evidence is extant for these in the thirteenth and fourteenth centuries.

Within the kingdom peace was shattered by a number of internal disputes. James II moved to destroy the power of the over-mighty family of Douglas, and was successful in this end. James III sought to curb the power of the family of Home and died in the process. In the post-Flodden period, before the beginning of the effective reign of James V, the kingdom suffered from the rivalries of "Albany, Arran and Angus",¹ and yet again civil discord produced civil disturbance. In 1517 Edinburgh suffered violence and again in 1520 with the "cleanse the causeway" incident.²

External factors also, particularly in the sixteenth century, did much to unsettle the kingdom. James III had waged war with the English, but in 1513 James IV led his fellow countrymen to disastrous and devastating defeat at the hands of the "auld enemy". With the Borders once again in a state of turmoil the power of the marcher lords, who bore the brunt of any foreign onslaught, remained unchecked. It was only with the Union of the Crowns in 1603 that a full policy of pacification of the border regions could be undertaken. This did much to explain the strength of the border families.

The increasing English attacks also added to the vulnerability of the border abbeys, a number of which were sacked by English armies. In September 1523 the abbey of Jedburgh was burned by the English,³ and Dryburgh probably suffered devastation the same year.⁴ In 1532 Coldingham was burned, though the priory was not specifically mentioned in the source,⁵ and in the same year the

1. G. Donaldson, Scotland James V to James VII, p. 31.

2. Ibid., p. 35.

3. L.P. Henry VIII, vol. III, pt. 2, no. 3360.

4. Easson, Religious Houses, p. 86.

5. Diurnal of Remarkable Occurrents that have passed within the country of Scotland, since the death of King James the Fourth till the year 1575, p. 16.

gate-house of Kelso Abbey was destroyed by Dacre.¹ In October 1542 the abbey was again destroyed by the English.² But perilous though the Borders may have been, the real troubles came only in the 1540s with the so-called "rough-wooing" of Scotland by Henry VIII.

In November 1544³ and September 1545⁴ Dryburgh was pillaged. In June 1544⁵ Jedburgh suffered the same fate, and again in 1545.⁶ Probably in 1544⁷ and definitely in 1545⁸ the abbey of Kelso was burned, and in September 1545⁹ the abbey of Melrose was burned and destroyed. Given the political uncertainties of the time, the abbeys in particular and the Church in general could do naught else but turn to the lay nobility for protection.

Civil disturbance as a result of lawlessness and political uncertainty were factors of long-standing but in the early to mid-sixteenth century a new and potentially the most disruptive element of all began to appear. Admittedly, many of the tenets of Lollardy, as expounded by the Lollards of Kyle, anticipated in particular the iconoclastic and anti-clerical ideas of the later reformers, but there is no evidence of any civil disturbance in Scotland due to their influence.¹⁰ It is therefore true to say that the Reformation movement generated novel and unaccustomed forces.

1. L.P. Henry VIII, vol. III, pt. 2, nos. 3098, 3135.

2. The Hamilton Papers, ed. J. Bain, I, p. 292.

3. L.P. Henry VIII, vol. XIX, pt. 2, no. 625.

4. Ibid., vol. XX, pt. 2, no. 456.

5. Ibid., vol. XIX, pt. 1, no. 762.

6. Ibid., vol. XX, pt. 2, no. 456.

7. Ibid., vol. XIX, pt. 2, no. 33.

8. Ibid., vol. XX, pt. 2, no. 456.

9. Ibid., vol. XX, pt. 2, no. 456.

10. For an exposition on Scottish Lollardy see J.A.F. Thomson, The Later Lollards 1414-1520, pp. 202-10.

Historians of that movement generally take as its inception the pinning of his ninety-five theses to the door of Wurtemberg cathedral by Martin Luther in 1517. By the 1520s the movement was fast spreading across Europe and schism within the Church was imminent. By 1525 at the latest, to judge by the actions of the Scottish parliament,¹ Lutheran tracts, and doubtless Luther's followers, were in Scotland. The movement spread quickly in the kingdom and gained its first martyr in the person of Patrick Hamilton in 1528. As the reforming ideas spread, anti-clericalism, which had always been present, found a new and explosive channel of expression. The reformers attacked the wealth and position of the clergy and the Church, and many of the laity were only too willing to find a defensible cause, which would justify the physical attack upon the fabric of the Church.

As has already been noted, the fabric of the Church was no longer sacrosanct, and from the 1530s onwards iconoclasm was evident in Scotland. In 1533 the image of the Blessed Virgin in the Church of the Greyfriars at Ayr was decapitated.² In 1537 in either Perth or Dundee (the source is not clear) the image of St. Francis was hung up by John Blacat and George Luwett.³ By 1540 the iconoclastic outburst seems to have reached sufficient proportions for an act of parliament to have been passed "anentis ymagis of haly sanctis canonist and apprevit be the halykirk" ordaining "that nane brek cast down nor ony utherwayis treit irreverendlie nor do ony dishonor nor irreverence to the saidis Imagis".⁴

1. A.P.S., II, p. 295, cap. 4.

2. St. Andrews Formulare, II, no. 367.

3. Criminal Trials in Scotland, ed. R. Pitcairn, I, p. 286.

4. A.P.S., II, p. 371, cap. 9.

In the next decade the violence became more widespread. In 1543 the friaries of Perth and Dundee and the abbey of Lindores were attacked by mobs.¹ The spread of violence and the inefficacy of the previous act were clearly illustrated by the preamble to an act of the privy council in 1546, which voiced the dread and fear of the council, that "evill dispoit personis will invaid, distroy, cast doun and withhald abbays, abbay places, kirkis, alswele parochie kirkis...and utheris spirituale mennis houssis, aganis the lawis of God and man".² What had begun as iconoclasm had escalated into a full-scale attack upon the fabric of the Church. In previous centuries, as has been seen, churches and monasteries had been attacked, but the intention had never been deliberate sacrilege. With this new and disturbing element of disorder now present, the Church could no longer rely on its moral and religious powers to defend it. It was now in dire need of physical protection, and it turned to the only source, which could offer it on a nation-wide scale, the nobility of the realm.

There were a number of ways in which the Church could seek to defend itself. Possibly the most common was the securing of bonds of maintenance or manrent with some powerful local noble. In 1518 the bishop and the earl of Argyll came to an agreement, whereby episcopal jurisdiction would not be impeded and the earl would support all clerics within his temporal bounds.³ In 1542 Robert Stewart, the bishop of Caithness, and John, earl of Sutherland, entered into a bond for their mutual defence, whereby the "trublis,

1. G. Donaldson, The Scottish Reformation, p. 30.

2. The Register of the Privy Council of Scotland, ed. J.H. Burton, I, pp. 28-9.

3. Acts of Council (Public Affairs), p. 131.



oppressioun, fire, slaucher, stowth, heirschip, occurand dalye and apperand to occur within this our dioce, quhairthrow we, our channownis, kirkmen and ministaris of haliekirk, our emolumentis and patrimonye thairof is suppressit",¹ would be confronted. And in 1540 Patrick Hepburn, bishop of Moray, entered into three "obligements". On 11 May, John Gordon of Lungar², on 7 November, John Grant of Ballindalloch (Balnadallocht),³ and on 8 November, 1540, Patrick Grant of Dalvey⁴ all agreed to be "loyal, true and faithfull" to the bishop and chapter.

Protection might also be secured in return for lands. In 1508 the fishing of two cobles on the Spey was let to Robert Innes of Rothnakenzie, partly in return for money, but also "for the help, fordering, supple and defence to be maid be thame in tymes cuming".⁵ In 1523 letters of tack for nineteen years of certain lands were granted to William Armstrong by the abbey of Kelso "for his services done till us and for to be done".⁶ In 1527 William Hamilton of McNariston bound himself to the abbot of Melrose to "ride and gang witht thame and mak thame service", in return for the grants of certain lands in feu-farm.⁷ Finally in 1543 William Dischington of Ardross was granted the lands of Grangemuir as the Latin says "pro ecclesiastice libertatis et sacre religionis observantia, tuitione, manutenentione, et defensione, hoc instante tempore periculoso, Lutheranis heresibus undique pullulantibus, et libertatem

1. Sutherland, III, p. 97, no. 86.

2. Moray, no. 431.

3. Ibid., no. 309.

4. Ibid., no. 344.

5. Pluscardyn, pp. 236-7.

6. S.R.O., Fraser: GD86/87.

7. Melrose, II, no. 599.

ecclesiasticam ac omnem sacre religionis observantiam et institutionem penitus enervare et subvertere nitentibus".¹

Even more modern means might be employed to secure protection. Direct money payments or their equivalent were sometimes made. In 1526 John, earl of Athole, promised in an indenture to aid George, bishop of Dunkeld, in all his actions save those against the king and a number of other people, and to protect the bishop's lands from all intruders and enemies. In return the bishop was to help the earl in all his affairs and to pay him forty pounds per annum.² In 1531 James Forbes of "Auchintovil" agreed to defend the monastery of Monymusk and not to harass it in return for a sum of money.³ In 1535 Andrew Home was awarded a pension for life in return for protecting the abbey of Dryburgh,⁴ while in 1554 George Towers of Inverleith, "ffor the gud trew and thankfull service to (the abbey) done and to be done", was granted four chalders of oats by the abbot of Holyrood.⁵

But it was primarily to the bailie, that the Church resorted to secure its defence in the century before the Reformation. In 1473 the monastery of Kelso, which was situated in the Borders, "where there are great wars", secured Walter Ker of Cessford as bailie for the defence of the monastery and its goods.⁶ In 1475 Alexander, first Lord of Glamis, as bailie of the hospital of Eassie fought to repel the attacks of John Ogilvy and other armed laymen. In the ensuing fray a number of men were killed.⁷ In 1516

1. Cited in Records of the Priory of the Isle of May, ed. J. Stuart, pp. xxx-xxxi.

2. H.M.C. Rept., VII, pt. 2 (Athole), p. 712, no. 88.

3. Prot. Bk. Cristisone, no. 89.

4. The Letters of James V, edd. R.K. Hannay and D. Hay, p. 286.

5. Holyrood, no. 132.

6. Register of Supplications, vol. 691, fo. 293 recto.

7. Ibid., vol. 734, fo. 252 recto, vol. 735, fo. 248 recto.

Gilbert, earl of Cassilis, was appointed bailie of the bishopric of Galloway in defence of its lands.¹ The grant of the bailiary of the lands of Kylesmuir and Barmuir by the abbot and convent of Melrose in 1521 was more specific. In this case the bailie was to "mantein, supple and defend the said reverend fader and convent and ther successoris landis, rentis, possessionis, men, tenandis and guidis quhatsumevir". The services of the bailie alone were not all that were acquired, for he pledged the aid of not only himself but also "(his) airis...freindis and allya sall at (his) power".² An ecclesiastical institution, which acquired the services of a bailie of connection also secured the protection afforded by the kin grouping. Another bond also illustrates this point. In 1539 James, Lord Ogilvy, and the Master of Ogilvy, as bailies of the monastery of Coupar-Angus, bound themselves and their heirs with their "freindis kyn and all that would do" for them to aid the abbot in his actions against all save the king.³ And it is clear that the bailies were indeed actually involved in this defence. Around the year 1490 the citizens of Renfrew attacked the burgh of Paisley, siezing goods from the market place but the bailies of the abbot, Alan Stewart and John of Whiteford, resisted the invaders and recovered the goods.⁴ In both theory and practice the bailie was a defensive figure.

By the 1530s the grants of the office were becoming clearer and more specific against whom this defence was required. The Ogilvies, as bailies of the monastery of Coupar-Angus, were to defend it

1. S.R.O., Ailsa: GD25/1/239.

2. Melrose, II, no. 598.

3. Coupar Rental, II, p. 292, no. 2.

4. J. Cameron Lees, The Abbey of Paisley 1163-1878, p. 151.

against the trials and incursions of thieves and wrongdoers but already an indication was given of the new dangers, which faced the Church "in this time of necessity".¹ The new challenge, as already remarked, was, of course, that of Lutheranism. Many of the principal criticisms of the reformers were levelled against the vulnerable, wealthy and corrupt monasteries, and these criticisms could be translated into action. Conflicting reports are extant concerning the physical well-being of the abbey of Arbroath in the year 1543. On the one hand it was reported to Henry VIII of England that "there be newes com this day to this towne, that the Lorde Gray...and the Lorde Ogleby, with a good bande, have sacked the Cardynalles abbey of Arbrogh",² while elsewhere it was stated that "in this tyme thair was ane greit heresie in Dundie; thair thair distroyit the kirkis, and wald have destroyit Abirbrothok kirk, war not the Lord Ogilbie".³ As Easson states "the present state of the buildings shows that no serious damage was done to them".⁴ It would appear ~~more~~ likely that the Ogilvies had fulfilled their functions as bailies and given the abbey physical protection. Reforming ideas were also strong in Ayrshire, where the head of the Lennox family aided the reformers. The monks and the church of Paisley, ^{situated nearby,} were in great danger from that source, but were protected by the family of Sempill, who were rewarded for their services with the hereditary grant of the bailiary of the abbey in 1545.⁵ It was, therefore, largely the threat occasioned by the reforming movement, which forced the Church into the hands of the powerful lay aristocracy.

1. Coupar Chrs., II, no. CLXXIII.

2. The Hamilton Papers, ed. J. Bain, II, no. 14.

3. A Diurnal of Remarkable Occurrents that have passed within the country of Scotland, since the death of King James the Fourth till the year 1575, p. 29.

4. Easson, Religious Houses, p. 58.

5. J. Cameron Lees, The Abbey of Paisley, p. 190.

Three grants of the office in the years 1544-5 serve to illustrate this clearly. By this period it would appear, that it was felt necessary to devote a section in any grant of bailiary to justifying the grant in terms of the defence of the Church. In 1544 the abbot and convent of the monastery of Inchaffray appointed the "powerful and catholic" noble, Lord Oliphant, to defend the monastery "contra quoscunque...preasertim in hiis turbulentis temporibus", and also "against heretics".¹ At the monastery of Kilwinning in the same year Hugh, earl of Eglinton, was appointed bailie to assist in the expulsion of evil men and heretics from the lands and possessions of the abbey.² A more specific exposition of the dangers which faced the monasteries is provided in the grant of the office of the bailiary of the abbey of Paisley in 1545 to the family of Sempill. The Latin of the document captures more forcibly than the English ever could the despair of the religious at the situation, when they complain, that "hiis nimirum diebus tanta invalescit hominum malitia ut (nihil) magis cordi sit quam monachorum possessiones invadere ac cenoebia funditus evertere".³ With such change in society at large, the monasteries in particular and the Church in general, relied ever more for physical protection upon the nobility of Scotland. It was this dependence upon the nobility for defence which drove the Church into making so many bailiaries hereditary in the period between 1530 and 1560. Just as James V was able to exploit the new situation which arose with the Henrician Reformation in England vis-a-vis the papacy, so too the Scottish

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1. Oliphant, pp. 67-70, no. 119.
 2. S.R.O., Eglinton: GD3/1/724.
 3. Paisley, Appendix 2.

nobility were able to exploit the threat of reforming thought within Scotland with regard, in particular, to the vulnerable and wealthy Scottish monasteries.

Less tangible benefits also accrued to the Church from the employment of powerful noble bailies. At the highest level the office was "probably what we should call a sinecure; it was frequently held by a peer and often several monasteries had the same chief steward. The monastery needed him not for his work but for his influence and especially at critical times, when it would be important to have a strong man at court...."¹ The author was speaking of the situation as it existed in England but there is little reason to believe that it was any different in Scotland. Many of the highest nobility held the bailiaries of Scottish monasteries, including the king himself, who was bailie of the monastery of Melrose.² These men would not perform the actual functions of the bailie, and must have been employed largely for the influence which they possessed and the counsel which they could give. The monastery of Holywood, when it granted to Robert, Lord Maxwell, the bailiary of its lands in 1522, specifically stated that the grant was made for "the good and thankful help counsel and assistance rendered to them by the noble Robert" and to be rendered to them in the future.³ Similar terms were outlined in the grant of the bailiary of the barony of Cardross, which belonged to the monastery of Inchmahome, to James Erskine in 1531.⁴ Some measure of the value to the Church of the possession of such bailies may be gained from an incident in the history of the abbey of Arbroath. On

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1. A. Savine, English Monasticism on the Eve of the Dissolution, p. 253.
 2. S.R.O., Register House Charters: RH6/1107.
 3. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170.
 4. S.R.O., Mar and Kellie: GD124/1/962.

5 December 1492 twenty arbiters of whom two were members of the family of Ogilvy, (which possessed the bailiary of the abbey) Walter Ogilvy of Boyne and James Ogilvy of Deskford, were appointed to perambulate certain lands. The resultant case was heard before the Lords of Council among whom was James Ogilvy of Airlie, bailie of the monastery. Finally the document was transacted in the presence of James Ogilvy, justice-depute in hac parte of the king.¹ As the days of impartial justice were as yet far off, it was necessary for the Church to gain the support of families of influence. The abbey of Arbroath was eminently successful in this field.

Thus the duties and functions of the office of bailie were many and varied, but lay basically in two. The essence of the office was legal though this tended later to be superseded in importance by the aspects of defence and physical coercion. Protection and assistance were given to the Church by the lay nobility. This dual function has been well incapsulated in the verbiage of one document. In 1539 James, Lord Ogilvy of Airlie, was appointed bailie of the monastery of Coupar-Angus specifically "*pro administratione iustitie tenentibus et incolis terrarum et possessionum...ac eorum legitima defensione contra quoscunque ipsos indebite infestare molientes providere*".²

Unfortunately, however, all is not so simple, for as no historian has as yet remarked, it is not one but four offices, which are at issue. The office of bailie was merely the most important. The problems raised by the overlapping of functions have already

1. Arbroath, II, no. 339.

2. Coupar Chrs., II, no. CLXXXIV.

been voiced, but the issues will now be examined in greater detail.

The functions and duties of the office of bailie have been examined, but something should also be said of the functions of the office of steward. The most adequate general definition of the office of steward is that offered by du Cange in his great dictionary. There four functions integral to the office of steward are distinguished. The steward was an administrator of revenues, a legal official, the leader of the levy and the servant of the bishop on solemn occasions.¹ As regards native sources which might indicate any function of an ecclesiastical steward, the earliest vernacular information of the period under consideration states that "the comonte of the kinrik as baronnys, knyghtis and fre tenandis stewartis of bischopys abbotis and conventis to the mutis of the scheref aw to cum".² It is therefore clear, that all the functions outlined above, save that of serving the bishop, could be performed also by the bailie, at least in the early period.

Remarkably little is known of, or written on the office of steward, as it operated in Scotland and what information is available is often contradictory. The simplest means of determining the functions of the office of steward would be by examination of a document which granted the office but, unfortunately, none has come to light. However, a picture may be formed of the actions of the steward in the regality of St. Andrews from a series of writs and other scattered documents in the formulary collection which is extant and which by their very nature may be taken to typify the functions

1. Glossarium Mediae et Infimae Latinitatis, ed. C. Du Fresne, Seigneur du Cange, VII, pp. 418-9.

2. Transcript of vernacular version of 'Regiam Majestatem', dated 1440, cap. CXLVIII, held in the library of the Dictionary of the Older Scottish Tongue, George Square, Edinburgh.

which contemporaries would expect a steward to perform.

In these writs the steward was concerned with the establishing of succession to lands by means of inquest.¹ He was responsible for determining that heirs were of age and capable of the administration of their estates² and he appointed tutors for heirs who were under age.³ Rather intriguingly he held inquests to determine the sanity of tenants to establish whether or not they were of sound mind (*incompos mentis fatuus et naturaliter ydeota*).⁴ He granted widows their *terce*.⁵ He perambulated lands⁶ and implemented their division.⁷ He settled disputes between tenants concerning possession⁸ and granted *sasine*.⁹ Other sources illustrate the steward actually in operation, though yet again this was in the regality of St. Andrews, which may not have been typical. Henry Scheves (Schevez), as steward of the regality, conducted an inquest to establish the succession to lands¹⁰ in March 1489/90 and again in January 1490/1.¹¹ Thomas Dischington, his successor, was found performing similar functions.¹² The common denominator in all these actions was the connection with lands and succession to them.

Other information may aid in clarifying the picture. The Dunkeld Rental shows that the steward was especially concerned in that regality with domestic affairs and household expenses.¹³ The

1. St. Andrews Formulare, I, no. 217, section c.

2. Ibid., II, no. 536.

3. Ibid., I, no. 217, section q.

4. Ibid., I, no. 217, section h.

5. Ibid., I, no. 217, section b.

6. Ibid., I, no. 217, section f.

7. Ibid., II, no. 398.

8. Ibid., I, no. 217, section j.

9. Ibid., I, no. 217, section d.

10. S.R.O., Blebo: GD7/1/3.

11. S.R.O., Crawford Priory: GD20/1/17.

12. S.R.O., Blebo: GD7/2/252.

13. Rentale Dunkeldense, ed. R.K. Hannay, pp. xix-xx.

chamberlain accounts of the regality of St. Andrews for the year 1539 bear this out, when the chamberlain paid to Sir James Achmuty (Auchmouty), steward and provisor, money to cover the expenses of the cardinal and his household at St. Andrews, Monymail, Edinburgh and elsewhere, with the exception of Arbroath Abbey.¹ Elsewhere he appeared to be concerned with the collection of estate duties, a function more readily associated with the office of chamberlain. In 1497 the abbot and convent of Holyrood confessed that they had received from Patrick Bellentyne full account and payment of corn, teinds, farms of churches, farms of lands and mills with their duties, annual rents, sums of money etc., by reason of his office of steward, and discharged him of these,² while in 1508 William Roger, steward of the abbey of Coupar-Angus, was said to be in charge of the forester, armiger and superintendent of fisheries of the estates.³

However, it is clear that the office was not precisely defined, and probably the duties varied from estate to estate. The functions of the office appear to have overlapped with those of the bailie. In 1530 it was Thomas Dischington, the steward of the regality, who issued the commission for the replegiation of William Ramsay of Blackmount from the sheriff court of Fife to the regality of St. Andrews,⁴ while in 1543 Adam Kirkton, the steward of Jedburgh, was said to hold the lands of Stewartfield for the service of one bowman in the common army and suit of court at Ullstone.⁵ But possibly it

1. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.

2. Prot. Bk. Young, no. 960.

3. Coupar Rental, I, p. xxxix.

4. S.R.O., Makgill; GD82/59.

5. S.R.O., Register of Charters and Leases by abbots, commendators of the abbey of Jedburgh etc., 1479-1596: Ch 6/6/1, fo. 10 verso.

was even more common to find the bailie performing functions, which might be better associated with the steward. The faculty granted to Roger of Cairns as bailie of "Colinhath Rig" in the diocese of Glasgow to confer hereditary infeftments after death has already been noted.¹ In 1459 an inquest concerning the succession to lands was held before Robert Graham of Old Montrose (Aldmonros), bailie of the bishop of St. Andrews.² In 1478 Alexander Lindsay, bailie of the abbot of Arbroath, held a similar inquest,³ while in 1540 the bailies of the priory of St. Andrews decreed that Thomas Hird and his spouse should not have a renewal of the tack of Newmill.⁴

Indeed on occasion the joint office of "stewart-bailie" was granted. In one undated formulary document, which may be of late fourteenth century provenance,⁵ reference was made to "the steward and bailie of the lord abbot" of the abbey of Dunfermline (seneschallus et ballivus...domini abbatis).⁶ More than a century later, during the episcopate of Andrew Forman, the office of steward and bailie of the regality of St. Andrews was granted to some unknown figure. He was empowered to perform all the functions normally associated with the office of bailie. He was to hold the head courts of the regality, to appoint the clerks, serjeants and judges of the court, to fine and punish delinquents and absentees, to collect and bring to the archbishop the profits of justice and to repledge the tenants and goods of the regality from other courts. Where the terms

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1. S.R.O., Broughton and Cally: GD10/5.
 2. S.R.O., Dalhousie: GD45/27/80.
 3. S.R.O., Yester: GD28/189.
 4. Acts of Council (Public Affairs), p. 492.
 5. Dunfermline Court Bk., p. 6, note 1.
 6. Dunfermline, no. 587.

differ from a normal grant of the office of bailie, and this was presumably the work which the steward would be expected to perform, was with regard to the receipt, opening and proclaiming of the briefes of inquisition from the regality writing-office and the holding of assizes and inquisitions.¹

In the 1520s Patrick Cheyne of Esslemont was created the "verray lauchtfull and undowtit bailze and stewart" of the lordship of Ellon in the regality of St. Andrews. As before, the grant followed the normal form for that of the office of bailie, but went beyond the normal in empowering him "all charters sesings instruments and documentis to recaive...copys thereof to ask and requyr".² In 1535 James Betoun, archbishop of St. Andrews, appointed Robert Dundas of "Pomfrastoune", Mungo Stevinsoune of "Hindmanshelis", John Pardovan and James Johnston as his lawful and undoubted stewards and bailies of the regality to hear a dispute over the farms of certain lands.³ Finally, in 1543 reference was made to "Jo. M. and G.B. bailye steuart deputtis of an honorable man A.B. de C. (probably Archibald Betoun of Creich) baillie steuart general of the regalite of Sanctandrois". In this instance the officials were to deal with the process of apprising.⁴ This was presumably part of the administrative experiments of the early 1540s begun by Cardinal Betoun, though, as is clear from the above information, the experiment was by no means novel.⁵ In all these instances, it was

1. St. Andrews Formulare, I, no. 24.

2. S.R.O., Errol: GD175/340.

3. S.R.O., Dundas: GD75/445.

4. St. Andrews Formulare, II, no. 498.

5. A recent commentator appears to have been unaware of these earlier experiments. M.H.B. Sanderson, 'Kin, Freindis And Servandis' The men who worked with archbishop David Beaton, Innes Review, XXV (1974), p. 35.

the connection with land, which distinguished the grants and the offices from the normal. The essential task of the steward appears to have been supervision of the legal aspects of tenure, in a similar fashion to the sheriff in the royalty of the kingdom. But there were no clear-cut divisions and the joint grant of these two offices well illustrates this point.

The reason for this probably lay in the changes which the office of bailie was undergoing in the fifteenth century. One historian, speaking in a slightly different context, stumbled upon the essential cause, when he declared, that "if in the sixteenth century the regality had a justiciar, who was also bailie-general, in the thirteenth century the offices were joined in the person of the steward".¹ To expatiate, it would seem that as the jurisdictional powers of the bailie increased, the position and power of the steward gradually declined, until in the period under consideration in Scotland, he had become a lesser figure in the monastic administration, essentially concerned with the day-to-day running of the estates.

This is clear from the type of man who secured possession of this office. The family of Scheves, whose scion, Henry, was the steward of the regality of St. Andrews in March 1489/90² was a member of a laird's family from Kemback in the Stratheden district of Fife.³ His successor in the office was of similar background. Thomas Dishington⁴ was probably the son of John Dishington of Ardross, another minor Fife laird,⁵ while Robert Betoun of Creich,

1. Dunfermline Court Bk., p. 9.

2. S.R.O., Blebo: GD7/1/3.

3. Genealogical Collections concerning Families in Scotland made by Walter Macfarlane, II, p. 199.

4. S.R.O., Blebo: GD7/2/252.

5. W. Wood, The East Neuk of Fife, p. 215.

who was steward of the regality in 1534¹ hailed once again from the minor nobility of Fife.² The origins of the family of Roger, who became the stewards of the monastery of Coupar-Angus, were even more lowly. William Roger, who became steward of the abbey in 1508, was the son of a life-renter on the abbey lands.³ By the fifteenth century in Scotland the stewards of ecclesiastical estates were drawn in general from the minor nobility and more prosperous tenantry.

While the functions of the offices might on occasion overlap, the future lay with the office of bailie and not with that of the steward. The newly rising figure of the "advocate" who was appearing all over Europe to protect the demoralised Church, accommodated himself to the jurisdictional framework of each country. In England the office of steward rose in importance, while in Scotland it fell, to be superseded by that of the bailie.

Attention may now be turned to the other two offices, which along with that of the bailie, facilitated the intrusion of the "advocates" into the estates of the Church, and have added to the confusion concerning the office. It is not merely one office, that of bailie, but three distinct offices with which the historian must concern himself.

In many of the monastic and episcopal grants it was not just the office of bailie, which was conferred upon the grantee, but also those of justiciar and chamberlain. In 1476 the offices of justice, chamberlain and bailie of the regality of "Athkarmoure" were granted to John Hamilton of Bradhirst,⁴ and the same policy was followed

1. R.M.S., III, 2985.

2. W. Wood, The East Neuk of Fife, pp. 124-5.

3. Coupar Rental, I, pp. xxxviii-ix.

4. Arbroath, II, no. 198.

when the regality was re-granted in 1529.¹ The family of Ogilvy of Airlie were created bailies, justiciars and chamberlains of the principal regality of the abbey of Arbroath in 1485,² and 1514.³ Other abbeys followed suit. In 1502 Patrick, earl of Bothwell, was created bailie, justice and chamberlain of the abbey of Dunfermline,⁴ while in 1540 Hugh, earl of Eglinton, secured all three offices at the abbey of Kilwinning.⁵ Yet it should be emphasised that these were three distinct offices, each possessing what was in theory a clearly defined area of jurisdiction. This distinctiveness is emphasised by the diplomatic forms of the grants of these offices, which are extant in the St. Andrews Formulare, and other registers.

The office which resembled most closely that of the bailie was the office of justiciar. The justiciar presided over the regality court, when it acted as the justice ayre, either at the caput or during its perambulations through the regality. The justiciar had a special concern for the four pleas of the crown, the major criminal jurisdiction, and the office existed, therefore, only in a regality which possessed the right to try the four pleas. Ayres were supposed to be held twice per annum but by the fifteenth century, to judge by the frequency of the acts of parliament calling for ayres to be held during the period 1449-88, (there were eight such acts during this period)⁶ they were held infrequently. The precise functions of the office may be determined by an examination of the terms of the grant, extant in the Formulare. The justiciar was empowered to hold and continue the justice ayres each year, to

1. Arbroath, II, no. 733.

2. Ibid., no. 281.

3. S.R.O., Airlie: GD16/25/70.

4. Register of Supplications, vol. 1150, fo. 139 verso.

5. S.R.O., Eglinton: GD3/1/723.

6. A.P.S., II, passim.

fence courts, to call suits, to create and if needs be, to remove the officials of the court, to indict, attach and arrest wrongdoers and delinquents, and to punish them according to the dictates of law, and to repledge from other courts the tenants and goods of the lands.¹ The remit of this official was circumscribed to the justice ayre but otherwise his powers resembled closely those of the bailie in his own sphere. Another almost identical grant of the office is extant in the formulary section of the register of the abbey of Dunfermline.²

This goes far to explain the linking of the offices of bailie and justiciar, with the consequent failure to distinguish what were, in general, two distinct offices. In 1473 the offices of bailie and justiciar of the abbey of Kelso were conferred upon Walter Ker of Cessford³ and this was repeated in 1478.⁴ In 1545 the archbishop of Glasgow granted these two offices to the earl of Arran with powers within the regality of Glasgow.⁵ The similarity of the terms of the remit and the occasional linking of the two offices has led to blurring and confusion between them. Dr. Dunlop in her history of "the life and times of bishop James Kennedy" stated that in 1447 Alexander Lindsay was deposed from the justiciarship of the monastery of Arbroath by the monks and abbot.⁶ In fact, all the sources specifically state that it was the bailiary which was at issue. Presumably Dr. Dunlop was following George Buchanan and his translator J. Aikman. The crucial sentence in Buchanan's history

1. St. Andrews Formulare, I, no. 25.

2. Dunfermline, no. 588.

3. Register of Supplications, vols. 691 fo. 293 recto; 694 fo. 35 recto.

4. H.M.C. Rept., XIV, pt. 3. (Roxburghe), pp. 19-20, no. 35.

5. H.M.C. Rept., XI, pt. 6 (Hamilton), p. 221, no. 161.

6. A.I. Dunlop, The Life and Times of James Kennedy, p. 78.

was the following: "Collegium Benedictorum Aberbrothii...iuridicundo praefecerat Alexandrum Lindesium comitis Crafordiae filium natu maximum...ipsi cum magistratum balivum vocant".¹ This Aikman translated as: "The college of Benedictines at Aberbrothoc had elected Alexander Lindsay, eldest son of the earl of Crauford, their chief justice...or bailiff".² It may well have been this which led to the confusion. Modern commentators have not been alone in making this mistake. In 1506 Sir Thomas Maule of Panmure was specifically granted the office of bailie, yet according to the text of the grant, it was the "curias justiciarias" which he was to hold.³ This may have been a scribal error but it would still be one of significance.

A similar situation existed as regards the office of chamberlain of the regality. The chamberlain was the financial officer and president of the chamberlain ayre. Something is known of the office as it functioned in the regality of Dunfermline. There the chamberlain collected the rents from the burgh lands, buildings and churches, the teinds and other ecclesiastical sources of revenue. In the sixteenth century chamberlain ayres were held frequently, though they seem to have been concerned only with the gathering of rents and teinds in kind. Money rents, it seems, were paid at the exchequer of the abbey, though this may have perambulated with the chamberlain.⁴ Up to the sixteenth century the office generally seems to have been held by an ecclesiastic, though as has been seen above, laymen did hold it also. Certainly at St. Andrews

1. G. Buchanan, Rerum Scoticarum Historia, p. 111.

2. G. Buchanan, The History of Scotland, translated J. Aikman, II, p. 136.

3. Panmure, II, pp. 269-70.

4. Dunfermline Court Bk., pp. 9-10.

the office always seems to have been held thus, while at Dunkeld the chantor, James Fentoun, held the office at some time during the years 1501 to 1524.¹ It was his duty to let the Church lands and teinds with the bishop's assent, to levy rents, to receive the returns from the serjeants and other subordinate officers and to render account in person to the bishop.²

However, the clearest means of determining the precise functions of the office of chamberlain is to examine a formulary grant of the office. One is extant in the St. Andrews Formulare. In this instance a cleric was appointed chamberlain of all the farms and fruits of the lands and churches which belonged to the archbishop by right of his office. He was further empowered to hold and continue the courts and chamberlain ayres within the regality, to punish delinquents, to levy and receive escheats and amercements, to set to farm all the lands and teinds of the archbishopric for a period of three years in accordance with the form of the rental, though only with the consent of the archbishop. He was to distrain, if that was necessary, to collect the farms, fruits, teinds, cains, customs, sums of money, victuals and gresssumes bringing them to the archbishop's use, and to issue receipts in the archbishop's name, to seek and receive the accounts of the bailies, mairs, serjeants and other officers, and give them quittances and if the need arose, to take any people before either secular or ecclesiastic judges.³ Though the powers of the office

1. Rentale Dunkeldense, ed. R.K. Hannay, p. XVII. This source supplies no dates but Fenton is known to have held office during the above period. (Watt, Fasti, p. 109).

2. Rentale Dunkeldense, ed. R.K. Hannay, pp. XVII-XVIII.

3. St. Andrews Formulare, I, no. 21.

were wide and they resembled closely those of the bailie and the justiciar, the emphasis of this office was on the financial aspects of the administration. The office was in theory distinct from the others under examination.

In practice, however, the duties of the office were often blurred with those of the steward and bailie. As has been seen, in 1497 Patrick Bellentyne, steward of Holyrood, was responsible for the collection of many of the dues of the abbey,¹ while it has already been noted that the bailie was often intimately involved in the financial administration of the ecclesiastical estates. The precise implications of his financial powers will be examined in the final chapter. Be that as it may, the office of chamberlain was nonetheless distinct.

This is particularly well illustrated by an incident in the regality of Brechin in the mid-fifteenth century. In January 1459/60 George, bishop of Brechin, empowered two of his clients to hold the chamberlain ayre in the city of Brechin. However, David Dempster of Auchterless, claiming to be the "bailze and chawmerlane to my lord the bischop of Brechine and to his kirk" forbade the latter to hold the court, and proclaimed himself ready to execute his office of "chawmerlanry efter the tenor of(his) feftment and the power geyne to (him) tharupon".² This was merely a symptom of the greater struggle which was to result in the loss of the office of bailie by the family of Dempster but it does clearly illustrate that to the men of the time the office of chamberlain was distinct from that of the bailie and could be, and indeed was, exercised by different men.

1. Prot. Bk. Young, no. 960.

2. Brechin, I, no. 90.

The problems surrounding an examination of the office of bailie are many and varied. He who hopes to find clear divisions in mediaeval administration will be disappointed. Just as distinctions require to be drawn between the different offices involved, so too something must be said of the different types of bailie and their subordinates.

A monastery or diocese might possess large estates. The core of these would be centred on the monastic house or episcopal seat but other lands, detached from this central body, might also belong to the institution. The bailie of the central core, as far as may be determined, was differentiated by title from those of lesser entities. Thus in 1499 William Mudie was the "bailie-principal" of the prior and convent of the monastery of St. Andrews.¹ In 1538 Henry Stewart of Rosyth was the "bailie-principal" of the abbey of Inchcolm,² while in 1540 the "bailie-principal" of Pittenweem was a certain Thomas Scott.³ In the same year James, Master of Ogilvy, was stated to be the "bailie-principal" of the lands and lordship of the abbey of Coupar-Angus.⁴ A variation in terminology has been encountered. Throughout the period 1533 to 1538 Alexander Betoun of Capildray was said to be the "ballivus generalis" of the abbey of Dunfermline.⁵ There is, however, no reason to believe that this terminology inferred any difference in status. The other major monastic official was the bailie-depute and something should now be said of his position and functions.

1. S.R.O., St. Andrews Charters: B65/22/156.

2. Inchcolm, no. LVIII.

3. Records of the Priory of the Isle of May, ed. J. Stuart, appendix to preface p. cv.

4. Coupar Rental, II, p. 298, no. 13.

5. Dunfermline Court Bk., passim.

Given the social class from which the bulk of the late mediaeval bailies were drawn it would have been surprising if these men had devoted much, if indeed any, of their time to the functions of the office. Many were drawn from the highest ranks of the nobility.¹ King James V himself was bailie of the abbey of Melrose from 1535. The earls of Home, Cassilis, Eglinton, Arran, Huntly, Argyll and Bothwell, the Lords Maxwell, Sempill, Oliphant, Ogilvy, Morton and Erskine were all bailies of ecclesiastical institutions at one time or another during the period under consideration. These men would spend much of their time involved in politics, central government and administration, and would in fact employ bailies on their own estates. Control of the day to day management of their estates might not only have been considered to be beneath them but they would simply lack the time to devote themselves to this. If they lacked the time and inclination to devote themselves to the administration of their own estates, they certainly would not take an active part in the minutiae of the administration of the ecclesiastical estates over which they were set as bailies, as the form of the grant of the office might lead one to believe.

Moreover, many noblemen held more than one ecclesiastical bailiary. The earls of Home eventually controlled the monasteries of Coldingham and Dryburgh and the nunnery of Eccles. Lord Oliphant was bailie of the monastery of Inchaffray and the nunnery of Elcho. The earl of Cassilis was bailie of the abbeys of Glenluce and Crossraguel and of the bishopric of Galloway. The Lords Maxwell eventually came to be bailies of the abbeys of Dundrennan, Holywood,

1. For further information on the bailies of the following estates see appendix one.

Sweetheart, Tongland and the collegiate church of Lincluden. There was patently insufficient time for a single bailie to superintend the management of all these estates even if it had been his inclination so to do. This fact illustrates the extent to which the character of office of bailie had changed in the fifteenth century. The bailie was no longer employed for his administrative skills; he was employed for his name and for the power and protection which flowed from it.

Ecclesiastical estates, however, were still in need of administration. The obligations implicit in the devolution of jurisdiction had to be fulfilled and this might be done in one of two ways. The grant of the office of bailie might be made conjointly to a nobleman and his eldest son or sons. In this instance the administration of justice was probably conducted by the son, thereby providing him with a training which would stand him in good stead when he came to inherit his father's estates. In 1485 James Ogilvy of Airlie and his son, John Ogilvy of Ballindoch, were created justices, chamberlains and bailies of the abbey of Arbroath for eleven years.¹ In 1495 Robert, Lord Maxwell, Robert, his son and heir, and Herbert, his second son, were created bailies of the lands of the abbey of Holywood for nineteen years² and in 1502 the office was conferred again on these three men in life-rent.³ In 1507 the abbot and convent of the abbey of Sweetheart granted the office of bailie to Robert, Lord Maxwell, and Robert, his eldest son, for nineteen years.⁴ In 1528 Sir Andrew Ker of

1. Arbroath, II, no. 281.

2. Carlaverock, II, p. 450, no. 61.

3. Ibid., I, p. 165.

4. Ibid., I, p. 165.

Ferniehurst and John, his son and heir, were appointed bailies of the abbey of Jedburgh¹ and in 1544 the bailiary of the abbey of Inchaffray was granted in life-rent to Laurence, Lord Oliphant, and in fee and heritage to Laurence, his son and heir and his heirs.² This may well have been one means whereby the clergy overcame the problem, but the principal means of fulfilling the obligation to implement justice was by the appointment of bailies-depute, who would in fact undertake the bulk, and in many instances, the total of the work.

The faculty to appoint the bailie-depute was one of the most important in any grant of the office of bailie, for without such appointments the administration of the estates might well have ground to a stand-still. Such appointments would be necessary and common in bailiaries where the office was held by a member of the highest nobility, but where the bailie was himself a member of the lower nobility, it is to be suspected that much of the work of the office was undertaken by the bailie in person. This he would be only too willing to do with the acquisition of power and jurisdiction which would be seen to accrue to him. In all probability this was the practice in many of the Fife bailiaries, and in those of the detached estates. Yet in the grants of the office to these men, they were still in general permitted to appoint bailies-depute³ and would doubtless do so, but only when they themselves were unable to perform the duties of the office personally. The terms of appointment of Alexander Cumming of Altyre to the office of bailie-depute of the abbey of Kinloss were such that he acted only

1. Peerage, V, p. 58.

2. Oliphant, pp. 67-70, no. 119.

3. Below, pp. 416-20.

in the absence of the bailie.¹

Only one full grant of the office of bailie-depute has come to light but a number of brief notices of appointment are extant in the court book of the regality of Dunfermline, for the period 1531 to 1538.² In each instance the appointment was made by Archibald Betoun of Capildray, the bailie-general of the regality. The form of appointment was in Latin and was given only in the most general terms:- "Archbaldus Betoun de Capildray ballivus generalis regalitatis...constituit creavit et solempniter nominavit... discretos viros Alanum Cowper et Alexandrum Traill...suos ballivos deputatos et iudices deputatos....Quaquidem Alanus et Alexander... in se acceptarunt huiusmodi officium et tactis sacrosanctis jurarunt de fideli administratione in huiusmodi officio".³

The regality made full employment of its deutes and of the forty-seven courts for which records survive, held between October, 1531 and March 1537/8 in only two instances were deutes not present and in each of these instances two full bailies, Archibald Betoun of Capildray and James Colville of Wemyss, presided.⁴ In a large and well-run regality the bailie-depute was an important and much utilised figure. Certain of the deutes appear considerably more frequently than others. Thomas Fyne appeared in forty of the forty-seven courts.⁵ Even more astounding is the fact that Fyne presided alone as bailie-depute over the court of the regality in three instances.⁶ In no instance did Betoun, the principal bailie, preside alone. Fyne was obviously a very capable and highly educated

1. Grant, III, p. 90, no. 95.

2. Dunfermline Court Bk., pp. 45, 58, 66, 72, 91 etc., passim.

3. Ibid., p. 58.

4. Ibid., nos. XXIX, XXXIV.

5. Ibid., passim.

6. Ibid., nos. V, XIV, XXIV.

millar.¹ Walter Ryngane appeared next most frequently, presiding over twenty-one courts.² The other deputies were employed with varying degrees of frequency.

On a number of occasions the deputies held court alone without the presence of a full bailie. In twelve separate instances no bailie-general was present, and either a single, as has been noted above, or a greater number of deputies presided.³ This number could vary from one⁴ to five⁵. The selection seems to have been random, for no pattern may be discerned in this process.

With regard to the actual functions of the bailie-depute recourse must be had to the only full grant of the office discovered, that to Alexander Cumming of Altyre in 1544. In this document it was stipulated that in the absence of the bailie, the depute was to hold the courts of the barony of Kinloss, to punish trespassers and fore-falters, to raise and gather in the unlaws and amercements at the command of the abbot and convent for their use, to hold wappinshawings and to repledge the tenants of the barony from any court, spiritual or temporal.⁶ These duties were identical to those of the full bailie, as outlined above. It would, therefore, appear that the bulk of the time of the depute was, as with the bailie in theory at least, spent in administering the courts of the ecclesiastical estates, a fact which is borne out by the records of the Dunfermline regality court book. Presumably, if it were necessary physically to defend the monastery or ecclesiastical estate, this task would fall upon the shoulders of the bailie-principal.

1. Dunfermline Court Bk., p. 155.

2. Ibid., passim.

3. Ibid., nos. V, VIII, X, XII, XIII, XIV, XVI, XXIV, XL, XLIII, XLV.

4. Ibid., nos. V, XIV, XXIV.

5. Ibid., no. XII.

6. Grant, III, p. 90, no. 95.

Thus the problems surrounding an examination of the office of bailie are many and varied but the importance and potentiality of the office are clear. The employment by the Church of bailies and other officials to administer their estates was not by choice but of necessity. Moreover, expediency in the late fifteenth and early sixteenth centuries demanded the employment of lay protectors who assumed, in Scotland, the guise of bailies. In the beginning the office had been largely legal in function but as time passed the element of protection gradually assumed greater importance. As the power and position of the bailie increased, so he began to subsume or accumulate the other administrative offices of the regality. As far as the temporality of the Church was concerned, the master was becoming the servant and the servant the master.

Foot-note 1, page 35

The bailie, however, was not alone in being granted powers of replegiation. Other monastic and episcopal officials, lay and ecclesiastic, were, on occasion, empowered to perform this function. In January 1511/12 Alexander, archbishop of St. Andrews, appointed six men, including his chamberlain, David Learmonth, to repledge from justice ayres. (Dalhousie: GD45/13/303). A month later, in February of the same year, William, bishop of Brechin, commissioned Mr. William Meldrum, chantor of Brechin, to repledge certain citizens of the burgh from the chamberlain ayre to be held at Dundee (Dalhousie: GD45/13/304), and in June 1513 James, archbishop of Glasgow, appointed six ecclesiastics his special commissioners to repledge clerics cited before the justice ayre to be held at Dunbarton. (S.R.O., Transcripts: RH2/8/35, pp. 40-41 - *Epistolae Regum Scotorum*, Letters of James III and IV and styles of ecclesiastical documents 1488-1513. Abstracts made by Dr. A.I. Cameron in 1938. Original in Edinburgh University Library, Laing MS. 322).

CHAPTER FIVE

THE SCOPE OF THE OFFICE OF BAILIE

The office of bailie permeated every level of Scottish society in both lay and ecclesiastical terms. Wherever a proprietor possessed lands too extensive to be managed under his immediate direction the necessity of employing a bailie would arise. Apart from the Church, the Crown was possibly the greatest employer of bailies. In 1448 the bailiary of Cunningham was conferred upon Alexander, Master of Montgomery,¹ and was monopolised by that family throughout the period under consideration and beyond. In 1495 King James IV granted the bailiary of the lordship of Eskdale in the sheriffdom of Dumfries to Alexander, Lord Home, in fee and heritage² and in 1524 Hugh, earl of Eglinton, was created bailie and chamberlain of the lordship of Stewarton.³ Other powerful laymen also employed bailies. In 1457 George, earl of Angus, appointed William Blair of Ardblair his bailie of the lands of "Wydderishaulch".⁴ In 1472 Archibald, earl of Angus, appointed James Scott of Buccleuch to be his bailie of the regalities of Liddesdale, Eusdale and Eskdale⁵ and in 1528 Robert, Lord Maxwell, appointed George Maxwell of Cowglen bailie of his lordship of the Mearns (Mernys).⁶

The powers and duties of the office were identical to those of the ecclesiastical bailie. On 4 June 1498 Hugh, Lord Montgomery, and his heirs were created bailies and chamberlains of the royal bailiary of Cunningham. Montgomery was empowered to hold the bailie

1. Montgomery, I, 31.

2. H.M.C. Rept., XII, pt. 8 (Home), pp. 133-4, no. 150.

3. Montgomery, II, pp. 100-101, no. 110.

4. Douglas, III, pp. 87-8, no. 91.

5. Buccleuch, II, p. 73, no. 74.

6. W. Fraser, The Chartulary of Pollok-Maxwell, p. 347, no. 2.

and chamberlain courts, to call suits, to punish delinquents and transgressors, to levy the amercements, escheats and issues of the courts, to receive pledges, to receive, open and proclaim briefes of the royal chapel, to appoint and remove mairs and serjeants, to hear and determine suits and questions in court and finally to appoint deputes.¹ Moreover, rivalry between different families for the possession of lay bailiaries was not unheard of. For many years the families of Eglinton and Glencairn vied with one another for possession of the bailiary of Cunningham. In 1509 the rivals had recourse to a submission ~~to~~ the bishop of Moray, the earls of Angus, Argyll, and Cassilis and Lord Borthwick and in 1523 an attempt to secure peace by means of a marriage alliance was made, but the feud continued.² This situation could be paralleled by many an ecclesiastical example.³ The powerful layman, just like the powerful ecclesiastic, had need of the services of the bailie and the lay bailiary was subject to the same development and forces as the ecclesiastical.⁴

The principal difference was that the bailie of a lay estate could never develop powers comparable to those possessed by the bailie

1. Montgomery, II, pp. 54-5, no. 66.

2. Ibid., I, p. 31.

3. See Appendix I under Arbroath and Kilwinning.

4. The office of ecclesiastical bailie, moreover, was similar to any such office in method of induction. In 1523 the sasine of the office of bailie of the monastery of Holywood was given by rod (virga), (H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170) while in 1544 the sasine of the offices of bailie, chamberlain and justiciar of the abbey of Kilwinning was given to Hugh, earl of Eglinton, "manu sua propria" by the delivery of the wand of justice (virga iustitiae). (S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 9).

of an ecclesiastical estate, simply because the lay estates were held by one family which would generally procreate and would ultimately resist the development of proprietary right over the lands by its bailies. On an ecclesiastical estate however there was, under normal circumstances, no such continuity. A bishop or abbot might now be the scion of one family, now of another. In the lay estate the strongest element of continuity was provided by the superior's family: in the late mediaeval ecclesiastical estate it was provided by that of the bailie. It is, therefore, to the considerably more vulnerable ecclesiastical estates that this study is devoted.

As was indicated in the last chapter every ecclesiastical institution which possessed temporal lands of any appreciable magnitude would require the services of a bailie to manage its administration. The power of the bailie, therefore, extended throughout the whole Church, though it varied according to the size of the institution. The extent of the jurisdiction granted might also vary, with the result that a vast assortment of bailies of different social classes and differing importance were to be found serving a vast assortment of ecclesiastical institutions.

During the twelfth and thirteenth centuries, the halcyon days of mediaeval monasticism, the monastic life had been regarded as the summit of religious perfection and the majority of the endowments of land given to the Church by the pious lay nobility had been conferred upon the monasteries. In Scotland too this had been the case and the numerous Scottish monastic establishments came to possess vast tracts of prosperous lands. The inordinate wealth of

the monasteries has already been commented upon.¹ It was, therefore, the monasteries more than any other institution which required the services of bailies. Every monastery in Scotland must have employed a bailie to regulate its temporal affairs and to perform the functions outlined in the previous chapter. Of the twenty-nine verified monasteries of late mediaeval Scotland² some nineteen can be shown to have possessed bailies and future research will doubtless lead to the discovery of more. It is principally, though not wholly, with the monastery and its relationship with the bailie that this study will be concerned.

Almost all the houses of Scottish monks were founded in the twelfth and thirteenth centuries and all the major orders, the Benedictines, Tironensians, Cluniacs and Cistercians were to be found there. All these orders have been found to have employed bailies, but most information is available for the Cistercians. Of the eleven confirmed houses of that order³ bailies have been identified for no fewer than nine. The only Scottish order for which no bailie has been discovered is the Carthusian, with its single house at Perth. The most probable explanation of this is a dearth of sources.⁵

Of the Cistercian houses the family of Kinneir of that Ilk appear to have been the bailies—principal of the abbey of Balmerino.⁴ At the abbey of Culross Patrick Blackadder of Tulliallan was followed in office by the earls of Argyll. The Cheynes of Esslemont held the office at the abbey of Deer. The family of Maxwell of Pollok were bailies of the abbeys of Dundrennan and Sweetheart. At Glenluce the family of Kennedy held the bailiary, at Kinloss the Grants of

1. Above p. 3.

2. Easson, Religious Houses, pp. 49-73.

3. Ibid., pp. 62-6.

4. Further information on each of the following houses may be found in Appendix I.

5. *The high moral standards of the order may also be relevant.*

Freuchie and at Melrose the Scotts of Buccleuch. The two Cluniac houses of Crossraguel and Paisley had as their bailies the families of Kennedy and Sempill respectively. The bailies of the Tironensian houses of Arbroath and Kelso were the Ogilvies of Airlie and the Kers of Cessford, while the Benedictine houses of Coldingham and Pluscarden employed the Homes of Home and the Dunbars of Durris. Each Scottish monastery possessed a bailie and that bailie was drawn from the ranks of the nobility.¹

Evidence concerning the next of kin of the monastery, the nunnery, is extremely sparse for the middle ages in Europe as a whole and in Scotland in particular. In theory the mediaeval nun could only be a contemplative and often an unwilling one at that, as the prioress of Lindsay's "Thrie Estaitis" confirmed.² The nunnery was, in fact, often merely a refuge for the unmarried and unmarriagable daughters of the nobility and had little to do with religion. But that aside the nunnery would, by its very nature, require the services of a bailie even more than the monastery. There are instances of monks undertaking administrative duties³ but, given the prevailing social norms of the period, it was inconceivable that a lady of nobility, wed to the Church, could involve herself with the administration of estates.⁴ The employment of a bailie was therefore an absolute necessity. Moreover, a community of women, isolated in what might be a hostile countryside, would be in even greater need of protection than their male counterparts. In

1. The question of the social class of the bailie is examined in some detail in the following chapter.

2. The Works of Sir David Lindsay of the Mount 1490-1555, ed. D. Hamer, II, p. 335.

3. St. Andrews Formulare, I, no. 48. See also above pp. 24-5.

4. For further discussion of the question of the female and bailiary, see below, pp. 237-240.

1471 the nunnery of Haddington was subjected to the attacks of the lairds of Yester and Makerston.¹ In 1482 the prioress of North Berwick appealed to parliament for protection against John Dischington and other inhabitants of Fife who attacked her property,² and in 1529 the archbishop of St. Andrews in a letter to the Pope lamented the frequent devastations by war on the nunnery.³ The situation of most of the nunneries, in the south-east of Scotland, made them particularly vulnerable to destruction and spoliation in times of war.⁴ It was this vulnerability which forced them into the hands of their bailies.

Scotland possessed only fifteen religious foundations for women and four of these had expired before the Reformation.⁵ Of the eleven surviving the bailies of four have been identified.⁶ An Oliphant was bailie of the nunnery of Elcho in the fifteenth century but by the mid-sixteenth the office had become hereditary in the house of Wemyss. Two different cadet lines of the family of Home provided the bailies of the nunneries of Eccles and North Berwick, while the family of Hepburn monopolised the office of bailie at the nunnery of Haddington. The consequence of this was that the nunnery in Scotland tended to become simply the "perquisite of some noble house".⁷

Remaining in the world of the regulars, the relationship between the orders of friars and the office of bailie must be

1. G. Chalmers, Caledonia, IV, p. 504.

2. J. Stuart, "On the Nunnery of North Berwick", Berwickshire Naturalists' Club, VII (1873-5), p. 82.

3. Ibid., p. 84.

4. Easson, Religious Houses, p. 37.

5. Ibid., p. 36.

6. Further information on each of the following houses may be found in Appendix I.

7. G. Donaldson, 'Haddington, the Cistercian Nunnery of St. Mary', Transactions of the East Lothian Antiquarian and Field Naturalists' Society, V (1952), p. 14.

considered. In fact only four references to bailies of friars have been found and three of these are concerned with a single house. In 1520 Andrew Bunch was said to be a bailie of the burgh of Perth and of the friars of that place (*ac ballivus dicti nostri loci*)¹. In 1533 John Peebles, a burgess of the burgh, was similarly cited,² while in 1546 Robert Eviot in Mireton was mentioned as being "baillie to the Prior and Convent of Freris Predicaturis of the burgh of Perth".³ Otherwise James Cockburn of Newbigging was "balze to the minister, provinciale warden and convent of freris minor of Haddington".⁴ It is, therefore, clear that, on occasion, friars did employ bailies. The reasons for the dearth of information are not far to seek. The position and aspirations of the orders of friars dictated poverty and though the original fervour was soon abandoned and the orders came to possess lands and revenues, they never acquired wealth and estates comparable to those of the monasteries. Indeed one historian, commenting on only one order, has stated that "in the last resort the Franciscans were essentially the poor clergy of the Roman Church, both in land and endowments".⁵ Moreover, most of the houses were situated in the burghs with the protection which they afforded and most of the land which they did possess was in the form of burgh tenements. These combined on the one hand to reduce the need for the services of a bailie and on the other to make the houses of friars less attractive propositions to the noble in his search for means to tap the wealth of the Church. It is clear that the friaries did

1. The Blackfriars of Perth, ed. R. Milne, p. 123.

2. Ibid., p. 125.

3. Ibid., p. 211, Appendix XVI.

4. S.R.O., Miscellaneous: GD1/39/V/2.

5. W. Moir Bryce, The Scottish Grey Friars, I, p. 137.

employ bailies for what lands they did possess but they were never of sufficient value or sufficiently vulnerable to attract the nobility in great numbers.

It was the canons regular who bridged the world between regulars and seculars, being priests who followed a rule. The order most in evidence in Scotland was that of the Augustinian canons who possessed some seventeen houses,¹ while the other important order, the Premonstratensians, had only five houses.² For all practical purposes as far as this study is concerned, in the sphere of estate administration the houses of canons were equivalent to monasteries. The same factors which held good for the monasteries held good also for the houses of canons. Bailies are much in evidence and of the twenty-two houses under consideration,³ if the priories of St. Andrews and Whithorn are included, fourteen have been found to have possessed bailies.

Of the five Premonstratensian houses in existence in the period under consideration, the bailies of four have been identified. At the abbey of Dryburgh the Homes of that Ilk held office.⁴ At the priory of Whithorn it was to the family of Kennedy that the clergy turned for their bailies, while the Maxwells of Pollok served as bailies to the abbeys of Holywood and Tongland. The bailies of ten Augustinian houses have also been traced. At the abbey of Inchaffray the family of Oliphant held office. At Inchcolm it was the Stewarts of Rosyth. At Inchmahome the office was held first by the family of Drummond and later by that of Erskine. The canons of

1. Easson, Religious Houses, pp. 74-85.

2. Ibid., pp. 86-8.

3. Ibid., pp. 74-88.

4. Further information of each of the following houses may be found in Appendix I.

Jedburgh turned to the Kers of Ferniehurst to act as their bailies, while at Monymusk, the family of Forbes held sway. At Pittenweem the local family of Scott of Fawside were bailies. The convent of Scone turned to a number of different families, those of Lindsay of Crawford, Blair of Balthayock, Rattray of Rattray, Abercromby of Inverpeffray and Charteris of Kinfauns, while the bailie of the barony of Auchtertyre (Wouchtertiry) which belonged to the priory of Strathfillan, was a Campbell of Lawers. Finally the more powerful and independent houses of Holyrood and Dunfermline employed a variety of bailies of a socially inferior status to the above.¹

With that the world of seculars is encountered. At the top of the secular hierarchy after 1472 and 1492 stood the two Scottish archbishoprics of St. Andrews and Glasgow, both of which possessed extensive lands gathered as endowments through the centuries. Indeed these two archbishoprics, and in particular the former, swamped the other Scottish bishoprics in terms of wealth and resources but even then the episcopal endowments never approached the monastic in extent or value.² Unfortunately, in Scotland no episcopal registers of the variety which abound in England are extant, with the consequence that information is often lacking and the evidence is somewhat disparate.

It is clear, however, that both archbishoprics did employ bailies but it would appear that in neither instance, at least in the period under consideration, was any single family in danger of dominating and appropriating lands or revenues. At St. Andrews the

1. Below, pp. 125-8.

2. I.F. Grant, The Social and Economic Development of Scotland before 1603, p. 223. *For more recent estimates see also valuations given in Fyson, Religious Houses, passim.*

office of principal bailie fell to the family of Learmonth of Dairsie at one time and to that of Betoun at another.¹ In addition a number of other figures appear as bailies of other estates. The family of Forbes were the bailies of the lands of "Petaquy" in the territory of Monymusk. The Douglasses of Lochleven appeared as bailies of Bishop-and Muckartshires. The Cheynes of Esslemont were the bailies of the regality of Ellon. The Lauders of the Bass held the office for the lands of Tynninghame and Lord Borthwick was bailie of the lands of Stow for a period in the 1540s at least. The identifiable principal bailies of the diocese of Glasgow were at one time the Blackadders of Tulliallan and at another James, earl of Arran. Otherwise Hugh, Lord Somerville, held the bailiary of the barony of Carstairs and Roger of Cairns held that of Dumfries.

The bishoprics similarly employed bailies. The bailiary of the see of Aberdeen was eventually made hereditary in the house of Huntly. The office at Brechin was held by the family of Dempster of Auchterless and then possibly by the Ogilvies of Airlie. The bailiary of the bishopric of Galloway was held by the earl of Cassilis and the sees of Dunkeld and Moray have been found to have possessed bailies. There is no reason to believe that the silence as regards the six other Scottish bishoprics is due to anything other than a lack of relevant source material.

Next in the hierarchy of the wealthy secular clergy were the cathedral deans and chapters, who formed legal corporations or "collegia"² and might hold lands in their own right. It is no surprise to find bailies serving these communities as opposed to

1. Further information on the following bailiaries may be found in Appendix I.

2. J. Dowden, The Mediaeval Church in Scotland, p. 61.

their immediate superior, the bishop. In 1487 reference was made to John Kennedy of "Knockerbaulk" as bailie of the priory of Whithorn which also served as the cathedral chapter of the bishopric of Galloway.¹ In 1494 John, Lord Sempill, was styled "ballivus dictorum decani et capituli" of Glasgow.² In 1499 reference was made to William Mudie, bailie-principal of the prior and convent of St. Andrews,³ which like those of Whithorn also served as the episcopal chapter. The episcopal chapters did possess lands in their own right and as independent and separate legal entities, distinct from the bishop, could and did employ their own bailies.

Apart from the exceptions of St. Andrews and Whithorn, the Scottish episcopal chapters were composed of secular canons. But secular canons existed also in the collegiate churches, some forty-two in number, which sprang up mainly in the fifteenth century.⁴ Collegiate churches were generally founded by noblemen who were careful to retain a firm hold over their investment. They tended to serve as "centres of lay influence in the ecclesiastical world of Scotland"⁵ and partly because of that fact and partly because they were not in possession of inordinately extensive estates, they found little necessity in employing full-time bailies. In fact only two such have been found. In 1499 George Moncrieff of Tippermalloch, his son Robert, and sir John Tyrie, provost of

1. S.R.O., Ailsa: GD25/1/147.

2. Glasgow, II, no. 467.

3. S.R.O., St. Andrews Charters: B65/22/156.

4. Easson, Religious Houses, pp. 173-8.

5. J. Dowden, The Mediaeval Church in Scotland, p. 108.

the Collegiate Church of Methven, were created bailies of that body¹ and in 1505 sir John Tyrie was appointed to be the sole bailie,² while Robert, fifth Lord Maxwell, held the office of bailie of the Provostry of Lincluden Collegiate Church.³ The collegiate church was not completely free of the complications which the need for a bailie might produce but the office was not to be associated in particular with that institution.

Continuing the survey of the secular hierarchy, the level of the parish is reached. In 1531 Mr. James Dingwall, vicar of the parish church of Wemyss,⁴ created Sir James Colville of Easter Wemyss bailie of the church lands and tenants of Wemyss for five years.⁵ Dingwall was also provost of the Collegiate Church of the Holy Trinity in Edinburgh.⁶ To a non-resident such as he the bailie would be a useful tool for the collection of revenues and for the defence of the vicar's interests.

At the lowest level of the secular hierarchy came the chaplains who, it is something of a surprise to find, also found need of the services of the bailie. In February 1539/40 the chapel of B.V.M. in Dumfries was attested to have possessed a "guardian and administrator" who was probably the equivalent of a bailie.⁷ In February 1477/78 John Cragy was the bailie of the altar of St. Mary, presumably situated in Stirling,⁸ who represented the chaplain in a legal dispute.⁹ While in 1541 David Cruikshank of Darley was the bailie of sir William Silver, chaplain of Meiklefolla (Mekil

1. Methven, p. 34.

2. Ibid.

3. Carlaverock, I, pp. 174-5.

4. Charters of the Collegiate Churches in Mid-Lothian, p. 108, no. 40.

5. Ibid., pp. 107-8, no. 39.

6. Ibid., p. 108, no. 40.

7. R.M.S., III, 2083.

8. The reference is taken from the protocol book of Sir James Darow 1469-84, which is also known as the protocol book of the burgh of Stirling. The Scottish Antiquary, X, p. 141.

9. Ibid.

Folay) and held court on the latter's behalf.¹

The last ecclesiastical institution which might be fitted into the secular framework was the hospital, or as it was sometimes also called, the house or chapel. Evidence of the existence of bailies of these bodies is definite. In 1476 Alexander Lyon, the first Lord of Glamis, as bailie of the hospital of St. Mary in the parish of Eassie, joined battle with John Ogilvy and his armed followers who had occupied the building². In 1500 reference was made to Oliver Sinclair, the bailie of Sir David Ramsay, chaplain of the hospital of St. Leonard near Lasswade. On a number of occasions between January 1515/16 and 1535, reference was made to the Wallaces of Newton as bailies of the hospital of Kingcase in Ayr, whilst Robert, fifth Lord Maxwell, was bailie of the preceptory of the hospital of Trailtrow. It is certainly clear that the bailie was a relatively important official of the house.

Slightly outside the main divisions of ecclesiastical life lay the military orders, which were composed of knights and fighting-men who lived a regular monastic life with the additional duty of fighting the infidel. By the period under consideration, however, the only order to be represented in Scotland was that of the Knights of the Hospital of St. John of Jerusalem, the Knights Hospitaller, who in the fourteenth century had absorbed the lands of their comrade order, the Knights Templar. Knowledge of the order in

1. Prot. Bk. Cristisone, no. 326

2. Further information on the bailiaries of the following hospitals may be found in Appendix I.

Scotland is extremely slight but by the fifteenth and sixteenth centuries it appears to have been heavily secularised. What is clear is that the united order possessed extensive lands and tenements in the burghs, scattered all over Scotland, lands which appear to have been governed by a host of what were generally termed "templar-bailies".¹

Some form of permanent regional organisation was in existence to cope with the administration of these scattered lands. North of the River Tay the sheriffdom of Angus and Gowrie constituted an administrative area, and on 1 November 1494 was under the control of Thomas Scougall as temple-bailie.² Further south lay the shire of Fife, where on 22 June 1490 Alexander Spens of Pittencrieff was bailie.³ The earldom of Lennox was similarly found to be a suitable administrative region. Walter Buchanan of that Ilk was bailie of the temple lands of Lennox from January 1478/79⁴ until at least 1493.⁵ Moving southwards the constabulary of Haddington constituted another bailiary. From 1448⁶ until at least 1458⁷ James Cockburn was bailie. The last administrative division to come to light was that of the sheriffdom of Ayr. In 1513 reference was made to a templar-bailie for that region⁸ and in 1532 Charles Campbell held

1. On the demise of the Order of the Knights Templar in the fourteenth century, the lands of the order were united with those of the Hospitallers. As one commentator has stated, "although the Templars had been dispossessed and had been succeeded by the Hospitallers, the lands formerly in their occupancy still retained the distinguishing appellation of "Terrae Templariae", and in the process of time this was extended to the original estates of the Hospitallers, so that at the time of the Reformation, when the order was dissolved, the whole lands, excepting the larger Baronies, were indiscriminately called Temple Lands". (Abstracts of the Charters and Other Papers recorded in the Chartulary of Torphichen from 1581 to 1596, p. 3). The bailies of all these lands were, consequently, called temple-bailies.

2. S.R.O., Rossie Priory: GD48/22/4.

3. S.R.O., Register House Charters: RH6/558.

4. S.R.O., Fraser: GD86/30; Register House Charters: RH6/478.

5. H.M.C. Rept., Various Collections, V, p. 84.

6. Newbattle, nos. 287, 288.

7. S.R.O., Newbattle: GD40/1/71.

8. Prot. Bk. Ros, no. 56.

the temple courts in the burgh of Ayr in his position as bailie.¹ Though only five of these temple bailiaries have thus far been identified, the entire kingdom was in all probability sub-divided into bailiaries, which for convenience sake appear generally to have coincided with the administrative divisions of the kingdom.

One of the principal attributes of the temple lands in Scotland was the right of sanctuary which they possessed. In the 1830s the temple tenements of Fife were still referred to as "houses of refuge"² and it is in this connection that the last major ecclesiastical institution, if it may be so termed, the girth, employed bailies to act as the bridge between the lay and ecclesiastical worlds.

By the time of James V the crown was tackling the problem of criminal violence with greater determination than ever before. Often felons escaped justice by gaining sanctuary in an ecclesiastical immunity or girth.³ In an earlier period these had served a purpose in affording a "cooling off" period to allow the offender and offended to consider their positions, but by the sixteenth century, if not before, these rights seem to have been abused. If a felon succeeded in reaching a girth he was, in theory, inviolate. The extent of the problem may be appreciated when the number of girths which existed in Scotland at the time is comprehended. Girths existed at Lesmahagow, Tain, Wedale, Dull, Torphichen, Stow and the churches of St. Baldred at Tynninghame and

1. Prot. Bk. Ros, no. 1305.

2. Abstracts of the Charters and other Papers recorded in the Chartulary of Torphichen from 1581 to 1596, p. 3.

3. Acts of Council (Public Affairs), p. 414; A.P.S., II, p. 348, cap. 30.

Innerleithen.¹ In addition, as has already been noted, temple tenements served as sanctuaries. There was some indication of concern at the situation in the fifteenth century² and the modest attacks on the privilege of sanctuary by the Kings of England in the same period³ may have prompted action north of the border.

The problem was that as, in general, felonies "tended to blood"⁴ and clerks, according to canon law, could take no part in such cases, felons were able to secure refuge in a girth and no ecclesiastic could, with clear conscience, hand him over to the secular authorities. Thus the Lords of Council declared that the clergy should "nem ane certane person quhilk is thar ballie and in that part to be maister of the girth".⁵ The bailie, who would be a layman, could with clear conscience hand over the felons to the royal justices. This motion of 21 February 1533/4⁶ became an act of parliament a year later, when it was officially decreed that masters of girths should appoint "sufficient responsale men ballies...under thame duelland" to deliver the felons to the officials of the crown.⁷

The consequences of this act have not been examined but, if implemented, would have greatly increased the number of ecclesiastical bailies in Scotland. It is, however, clear that at the sanctuary of Tain at least the office of bailie had existed for many years. As early as 1458 John McCulloch was bailie of the girth of "Sanct Duthowis".⁸ For some considerable period the office seems

1. J. Dowden, The Mediaeval Church in Scotland, pp. 148-50.

2. A.P.S., II, pp. 95-6, cap. 11; p. 99, cap. 3.

3. A.G. Dickens, The English Reformation, p. 89.

4. Acts of Council (Public Affairs), p. 414.

5. Ibid.

6. Ibid.

7. A.P.S., II, p. 348, cap. 30.

8. Origines Parochiales, II, pt. 2, p. 429.

to have lain in the family of McCulloch of Plaids, though later in the century the family of Innes appear in the role of bailie.¹

Otherwise, ecclesiastical bailies do appear in more unusual instances. In 1541 the abbot of Newbattle created Alexander Atkinson and his heirs the bailies of the sea-gate on the monastery's lands with the faculty to hold maritime courts (cum potestate curias aquaticas tenendi).² Moreover it would appear that the principal bailies of ecclesiastical estates did not act in general as bailies within the burghs of Scotland. In 1461 Alexander Douglas, one of the bailies of the burgh of Aberdeen "ac eciam abbatis" of Arbroath Abbey, granted sasine of a tenement in the burgh of Aberdeen,³ and in 1509 William Rolland, burgess of Aberdeen, appeared as the bailie and commissary of the abbot of Arbroath to the newly erected burgh of Torry.⁴ The proliferation of bailies with a particular and special remit was potentially endless.

Just as the scope and range of the ecclesiastical institutions which possessed bailies was wide, so too the extent of the jurisdiction afforded the bailie varied considerably from franchise to franchise. Obviously, much would depend upon the institution in question as to the extent of the jurisdiction devolved upon the bailie, for the bailie of the abbey of Kelso had far greater scope than say the bailie of the sea-gate of the abbey of Newbattle. But even with the larger jurisdictional units, differences in the powers afforded the bailie could vary drastically.

1. See Appendix I.

2. R.M.S., III, 2362.

3. Arbroath, II, no. 134.

4. Arbroath, II, no. 480.

Certainly the most extensive and, doubtless, the most sought-after would be those grants which gave the bailie full jurisdiction over all the lands and rents of a particular abbey or ecclesiastical institution. In 1465 Alexander Home was appointed bailie "of the whole kirklands and annual rents whatsoever pertaining to the monastery" of Coldingham.¹ In 1470 Laurence, Lord Oliphant, was created bailie of all the lands of the nunnery of Elcho by the convent of the place² and a vernacular grant of the bailiary of the abbey of Coupar-Angus in 1523 created the Ogilvies of Airlie bailies "of all and sundry (the) lands, annuals and annual rents whatsoever" pertaining to the abbey within the realm of Scotland.³ But the grant of the office of bailie of the abbey of Inchaffray in 1544 to Laurence, Lord Oliphant, is a fine example of virtual blanket coverage of the powers of a bailie in a Latin document. In this instance Oliphant was created bailie "omnium et singularum nostrarum terrarum et possessionum, fructuum, reddituum et emolumentorum quorumcumque dicto monasterio pertinencium aut pertinere in futurum valencium ubicumque infra regnum Scocie iacencium".⁴ Not only the possessions of the abbey at the time of the grant, but even those which it obtained in the future were to be within the bailie's remit. A wider grant could scarcely be hoped for or envisaged.

But many of the grants of the office were circumscribed in some way. In 1524 Walter Scott of Buccleuch and his heirs secured in fee and heritage the bailiary of all and sundry the lands of the abbey

1. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

2. Oliphant, pp. 16-17, no. 28.

3. Coupar Chrs., II, no. CLXVII.

4. Oliphant, pp. 67-70, no. 119.

of Melrose, save those of Kylesmuir, Carrick and Nithsdale.¹ In 1539 the bailiary of all the lands of the monastery of Coupar-Angus within the sheriffdoms of Perth and Forfar was granted to the family of Ogilvy of Airlie. Those lands lying within the earldom of Athol were exempted.² This practice was again evident when in 1545 the office of bailie of the monastery of Paisley was granted to the family of Sempill. The Sempills were to be the hereditary bailies of all the lands of the abbey, save the lordship of Kyle and the lands lying within the sheriffdom of Ayr,³ which were held by the family of Wallace of Craigie.⁴ Certainly, as will be seen in the next chapter, it was for reasons of geography that such a policy was pursued but nevertheless, the powers of the principal bailies were still restricted.

A third type of grant is evident; that which rather than give blanket coverage, specified precisely the lands over which the bailie was to exercise power. The grant of the bailiary of the abbey of Kelso in 1478 to Walter Ker of Cessford falls into this category. In this instance the following lands were meticulously detailed. Ker was to be bailie over the lands and lordships of "Sprouston, Reddane, the barony of Baldane, and other lands of the abbey in the sheriffdom of Roxburgh, the lands of Ugstoun, Home, Gordoun, Bothel, Harnhede and all other lands within the sheriffdom of Berwick, with the barony of Dodynston and the lands of Hundby in the sheriffdom of Edinburgh and the constabulary of Haddington".⁵ In January, 1499/1500 the bailiary of the priory of Pluscarden,

1. Buccleuch, II, pp. 142-3, no. 131.

2. Coupar Chrs., II, no. CLXXIII.

3. Paisley, apps. II, III.

4. G. Chalmers, Caledonia, VI, p. 823.

5. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.

lying in the sheriffdom of Elgin, Forres and Nairn, was granted to James Dunbar of Cumnock.¹ In 1516 Gilbert, earl of Cassilis, was appointed bailie of all the lands belonging to the bishopric of Galloway, lying in the sheriffdom of Wigton and the stewartry of Kirkcudbright.² These grants might indeed be the equivalent of the variety first examined but the very precision with which the lands were specified might be taken to indicate that certain jurisdictional units were excluded.

The final category was that of the lesser jurisdiction which was in itself a complete entity. In 1476 the lands of the regality of "Athkarmoure" within the sheriffdom of Lanark were placed under John Hamilton of Bradhirst as bailie.³ These lands were distinct from the core of the regality of Arbroath Abbey. In 1456⁴ and again in 1532⁵ the bailiary of the barony of Lesmahagow was granted to the family of Hamilton. This was a detached estate belonging to the abbey of Kelso. In 1506⁶ and 1511⁷ the bailiary of the barony of Barry, which belonged to the abbey of Balmerino, was granted to Sir Thomas Maule of Panmure. In 1521 the bailiary of the lands of Kylesmuir and Barmuir which belonged to the monastery of Melrose was conferred upon Hugh Campbell of Loudoun⁸ and in 1527 Gilbert Menzies and William Rolland were created bailies of the barony of Torry in the sheriffdom of Kincardine.⁹ This was yet another office in the gift of the abbey of Arbroath. Attention has already been drawn to a similar practice with regard to the detached estates of the

1. Pluscardyn, pp. 235-6.

2. S.R.O., Ailsa: GD25/1/239.

3. Arbroath, II, no. 198.

4. H.M.C. Rept., XI, pt. 6 (Hamilton), pp. 213-4, no. 134.

5. R.M.S., III, 1220.

6. Panmure, II, pp. 269-70.

7. Ibid., pp. 279, 280.

8. Melrose, II, no. 598.

9. Arbroath, II, no. 646.

bishoprics and archbishoprics. To grant the bailiaries of these smaller franchises as separate units was common practice.

The scope of the office of bailie was exceptionally wide. Every ecclesiastical institution which possessed lands of any significance required in theory the services of a bailie. The bailie was therefore a figure to be found at every level of the Scottish ecclesiastical hierarchy. Again the extent of the jurisdiction granted to the bailie could and did vary considerably. A great nobleman would secure the principal bailiary of a major abbey or bishopric (the king himself became bailie of the abbey of Melrose),¹ while lesser families would find a slot at their own social and economic levels. The bailie was an official whose presence permeated late mediaeval Scottish society.

1. S.R.O., Register House Charters: RH6/1107.

The Selection of the Bailie

Thus far something has been said of the functions of the bailie and the extent to which the office permeated late mediaeval Scottish society. At this stage an attempt must be made to determine precisely why any particular figure was selected by an ecclesiastical institution to act as its bailie and indeed to what extent this choice was free. Over Scotland as a whole certain factors do appear to have been predominant in the choice of the bailie and certain patterns do emerge.

The principal and over-riding factor in determining the choice of the bailie was geography. In almost every recorded instance the bailie of an ecclesiastical estate himself held lands in close proximity to the lands over which he exercised the functions of the bailie. The second predominant factor, and one which was inextricably intertwined with the first, was that of capacity on the part of the prospective bailie. The candidate must be able to fulfil the functions of the office as outlined in Chapter Four. There it was seen that the two basic duties were those of judicial administration and, increasingly, of defence. There were only certain classes of the population who were capable of performing these. Consequently, the bailies were in general drawn from the landowning classes. It was the nobility of the land who were acquainted with the problems of estate management and the implementation of justice. Admittedly, as will be seen, the emergent professional classes did have a role to play in certain of the more powerful and independent ecclesiastical institutions but they could not provide the component of physical protection which was becoming ever more necessary. Increasingly political influence

was coming to be the determining factor in the choice of the bailie. The bailie had to be a man of import, one who could represent and defend the interests of the Church. "Influence" in the middle ages came with the possession of lands, jurisdiction and offices. It was the nobility who possessed these and so it was to this class of the population that the Church predominantly turned to provide its bailies.

A third important factor was the influence of the kin grouping.¹ This might affect the selection of the bailie in a number of ways. The influence of kinship on late mediaeval Scotland is a largely unresearched subject but certain generalisations may be made. In the late mediaeval world it was accepted that obligations existed to members of one's family. Any man who secured high office or position was duty bound to further the interests of his own family. This was a common and accepted concept all over Western Christendom. In Scotland however this went even further. The obligation lay not only with immediate members of the family but also with the very distant, and indeed with people who might only bear the same name. In fact, client kin groups did exist and it might be incumbent upon the leader of the dominant kin to further also the interests of these lesser followers. This kin organisation was largely a Celtic phenomenon and existed most clearly in the Highlands of Scotland, but the feudalisation of the Lowlands in the twelfth and thirteenth centuries had not obliterated this more fundamental relationship there. Evidence does exist which points to the fact that it was

1. I am indebted to Dr. J. Bannerman for discussing with me the implications of the kin-grouping in late mediaeval Scottish society.

still a potent and recognised factor in Scottish society. One commentator has stated that "in the Lowlands, where surnames had become all but universal before the end of the fifteenth century, the evidence of the cohesion of families and of the bearers of the same name is overwhelming. Again and again it is plain that Hamiltons, or Stewarts, or Douglasses, stood or fell, were forfeited or rehabilitated, en bloc....A man could not be expected to fight against his kin: when James V was besieging the earl of Angus in Tantallon, Douglas of Glenbervie was exempted from service in the royal army because he was 'tender of blude' to the rebels.¹ The Borderers were often emphatic that 'the name' was of primary consideration. Thus in the 1570s the surnames of Brownfield and Haitlie were locked in a feud.² Even in the period under consideration in Lowland Scotland, and much more pertinently, in the more clannish Borders and south-west the influence of the kin group was an important factor in Scottish politics.

With regard to the selection of ecclesiastical bailies the kin was important and indeed often predominant in two basic ways. In certain instances the only cause which may be established for the choice of a particular person to serve as bailie of an estate was that of kinship to the holder of the benefice in question. This, however, was not common and the hold of the family over such a bailiary was generally of short duration. More common, and considerably more dangerous as far as the Church was concerned, was the power of the regional kin groups. In Scotland certain regions, in particular those far from the centres of royal government,

1. G. Donaldson, Scotland James V to VII, pp. 12-13.

2. G. Donaldson, Scotland, the Shaping of a Nation, p. 236.

tended to be dominated by a single family. This was the case in the Borders and the south-west. In these areas of strong kin affiliation it was almost inconceivable that an ecclesiastical bailiary could be conferred upon any man who was not a member of this group. It was in these regions in particular that the freedom of the Church was severely circumscribed.

The above, therefore, were the three main factors in the choice of the bailie of any ecclesiastical estate, geography, "influence" and, in certain instances, the kin group but other less obvious factors might also have a role to play. On occasion the mere possession of a bailiary might be used as justification for the continued presence of a particular family in that office. In 1539 the grant of the office of bailie of the abbey of Coupar-Angus to the family of Ogilvy of Airlie in fee and heritage was justified by the statement that the predecessors of the present Lord Ogilvy had been bailies.¹ Similar justifications were made in the hereditary grants of the bailiaries of Inchaffray in 1544² and Kilwinning in 1545.³ To modern eyes this might well appear a pressing reason why the same family should not continue to hold office but to the mediaeval mind, where antiquity and tradition were of prime importance, such considerations would be overruled. Again economic justifications for the selection of a particular bailie might be offered. The appointment of Walter Ker of Cessford to the bailiary of the abbey of Kelso in 1478 was partly in recompense for the gift to the abbey of fuel from the moor of Caverton, namely "le turf, pete, hathir, cole and brume", necessary

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1. Coupar Chrs., II, no. CLXXIII.
 2. Oliphant, pp. 67-70, no. 119.
 3. S.R.O., Eglinton: GD3/1/724.

for the abbey.¹ The grant of the bailiary of the barony of Auchtertyre (Wouchtertiry) made to James Campbell of Lawers by the prior and convent of Strathfillan in 1542, was partly due to his payment of three hundred marks for the repair of the church of Strathfillan and towards payment of the tax to James V.² Such arrangements might be taken to represent the simoniacal practice of purchase of an ecclesiastical office but as these economic considerations formed only one part of the justification they appear to have been regarded as being acceptable. Certainly, they were not common. Finally, the influence of royal patronage might come to bear. In 1516 the bailiary of the bishopric of Galloway was granted to Gilbert, earl of Cassilis, "for the part that he has kepit to our soverane lord in his less age and to my lord governour, his tutour and protectour".³ A bailiary could be a pawn in the game of politics.

These then were the principal reasons for the choice of a particular figure to act as the bailie of an ecclesiastical estate. Any such analysis as this must consider each of these separately but seldom was their influence wielded in isolation, while their combination could be disastrous with regard to the freedom and independence of the Church. Be that as it may, the statement that the geographical position of the ecclesiastical institution was pre-eminent in the choice of the bailie must now be considered in greater detail.

1. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.
 2. R.M.S., III, 2993.
 3. S.R.O., Ailsa: GD25/1/239.

TABLE 1

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Monastery

Monastery	Location of Lands	Family	Location of Lands
Arbroath	North of Tay Estuary	Ogilvy of Airlie	West Angus
Balmerino	North Fife	Kinnear of Kinnear	Wormit, North Fife
Coldingham	East Berwickshire	Home of Home	South Berwickshire
Coupar-Angus	Border of Angus and Perthshire	Ogilvy of Airlie	West Angus
Crossraguel	West Ayrshire	Kennedy of Cassilis	Ayrshire
Culross	West Fife, North Bank of Forth	Blackadder of Tullialan Campbell of Argyll	Near Culross Castle Campbell
Deer	North Aberdeenshire	Cheyne of Esslemont	Near Ellon, North Aberdeenshire
Dryburgh	Border of Berwick and Roxburghshires	Home of Home	South Berwickshire
Dundrennan	South of Kirkcudbright	Maxwell of Pollok	South of Dumfries
Dunfermline	South-West Fife	Betoun of Capildray Colville of Wemyss Easter	Central Fife South Fife, North Bank of Forth
Glenluce	Central Wigtonshire	Kennedy of Cassilis	Ayrshire
Holyrood	Near Edinburgh	Hepburn of Whitsome Dawson of Leith Lauder (of Bass?) Monypenny of Pilrig	South-East Berwickshire Near Edinburgh Near Edinburgh Near Edinburgh

TABLE 1 (Contd.)

Monastery	Location of Lands	Family	Location of Lands
Holywood	West Dumfriesshire	Maxwell of Pollok	South of Dumfries
Inchaffray	South Perthshire	Oliphant	South Perthshire
Inchcolm	Island in Forth Estuary	Stewart of Rosyth	South-West Fife
Inchmahome	South-West Perthshire	Drummond Erskine	South Perthshire South Perthshire
Jedburgh	Roxburghshire	Ker of Ferniehurst	Roxburghshire
Kelso	North-East Roxburghshire	Ker of Cessford	North-East Roxburghshire
Kinloss	North-West Elginshire	Grant of Freuchie	Elginshire
Kilwinning	North Ayrshire	Montgomery of Eglinton	North Ayrshire
Melrose	North Roxburghshire	Scott of Buccleuch	Selkirkshire
Paisley	South Renfrewshire	Sempill	Lanarkshire
Pittenweem	South-East of Fife	Scott of Fawside	South Fife
Pluscarden	Near Elgin	Dunbar of Durris	Near Elgin
Scone	South-East Perthshire	Lindsay of Crawford Blair of Balthayock Rattray of Rattray Abercromby of Inverpeffray Charteris of Kinfauns	South East Perthshire South East Perthshire East Perthshire South Perthshire South East Perthshire

TABLE 1 (Contd.)

Monastery	Location of Lands	Family	Location of Lands
Sweetheart	East Kirkcudbrightshire	Maxwell of Pollok	South of Dumfries
Tongland	South Kirkcudbrightshire	Maxwell of Pollok	South of Dumfries

The bailie of almost every Scottish religious house held lands in close proximity to the lands over which the bailial jurisdiction was exercised.¹ In the south east of the kingdom the family of Home supplied the bailies of the monasteries of Coldingham and Dryburgh. The Border abbeys of Kelso and Jedburgh appointed as their bailies members of the two different and often rival branches of the family of Ker, the Kers of Cessford and Ferniehurst respectively, while the abbey of Melrose turned to the family of Scott of Buccleuch. In the south-west the bailiaries of the abbeys of Dundrennan, Holywood, Sweetheart and Tongland were all held by the family of Maxwell of Pollok. In Galloway the bailiaries of the abbeys of Crossraguel and Glenluce were held by the family of Cassilis. Moving into the Central Lowlands the situation was

1. For details of the histories of the following ecclesiastical institutions and for source references see Appendix I. For geographical information see Tables one to thirteen. These tables attempt to co-relate the geographical location of the ecclesiastical bailiaries and the geographical location of the lands of the bailies set over them. The method of compilation was empirical. Most of the geographical information was taken from Groom's Ordnance Gazetteer of Scotland. For the purpose of this study it has been assumed that the bulk of the lands of any ecclesiastical institution lay in close proximity to that institution and so it is the geographical location of the latter which is here cited. With regard to the bailies different methods were employed to determine the location of their lands. Where some territorial appellation was given with the name of the bailie e.g. Thomas Cheyne of Esslemont, the bailie was assumed to possess lands or to reside in that place. In the case of peers for whom no territorial designation was given in the source the Scots Peerage or a family history was consulted and the position of their landholdings was gleaned from that source. Thus Hugh, Lord Somerville, was found to possess lands at Newbigging in Lanarkshire. A table of this variety can never be precise for it is possibly a false assumption that Lord Forbes did possess lands in the area of Forbes at the time in question, but until a geographical atlas makes some more detailed attempt to portray the landholding pattern in Scotland at this period this is the best that may be done. The tables can only be regarded as a rough and ready guide but for the purposes of this study they are more than adequate.

TABLE 2

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Friary

<u>Friary</u>	<u>Location of Lands</u>	<u>Family</u>	<u>Location of Lands</u>
Haddington	East Lothian	Cockburn of Newbigging	Midlothian
Perth	Perth	Eviot in Mireton Perth burgesses	South Perthshire Perth

similar. The family of Montgomery of Eglinton supplied the bailies of the abbey of Kilwinning, while at Paisley it was the Sempills who filled the office. The bailiary of the priory of Inchmahome was held by the family of Erskine, while that of Inchaffray fell to the Oliphants. In the more densely populated area of Fife the situation was identical. The bailies of Culross were first of all the Blackadders of Tulliallan and later the Campbells of Argyll, who possessed lands in the area. The Stewarts of Rosyth acted as bailies of the abbey of Inchcolm, while the Scotts of Fawside were appointed to the bailiary of Pittenweem. At the abbey of Balmerino the Kinnears of that Ilk appear to have held the office. Moving north of the River Tay, the various bailies of the abbey of Scone were of local stock. Lindsay of Crawford, Blair of Balthayock, Rattray of that Ilk, Abercromby of Inverpeffray and Charteris of Kinfauns succeeded to the office. The Ogilvies of Airlie acted as bailies, both to the abbey of Coupar-Angus and to that of Arbroath, while in the north-east a Forbes served at Monymusk, a Cheyne of Esslemont at Deer, a Dunbar of Durris at Pluscarden and a Grant of Freuchie at Kinloss. In every recorded instance the Scottish monastic houses selected as their bailies figures of local extraction.

An identical pattern is to be observed with the orders of friars. Three bailies of the Dominican house at Perth have been identified. In 1520 Andrew Bunch, a bailie of the burgh of Perth, and in 1533 John Peebles (Peblis), a burgess of the burgh, were said to be bailies of the order, while in 1546 Robert Eviot in Mireton (Myrtoun) acted as bailie. Similarly the Franciscan friars of Haddington in 1490 employed James Cockburn of Newbigging as their

TABLE 3

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Nunnery

<u>Nunnery</u>	<u>Location of Lands</u>	<u>Family</u>	<u>Location of Lands</u>
Eccles	South Berwickshire	Home of Home	South Berwickshire
Elcho	South Perthshire	Oliphant Wemyss of Wemyss	South Perthshire Near Elcho (held local barony)
Haddington	East Lothian	Hepburn	Midlothian
North Berwick	East Lothian	Hume of Polwarth	East Lothian

bailie. The latter two both hailed from the respective localities.

Moving to the world of the female religious a similar situation is found to exist. The nunnery of Eccles secured as its hereditary bailies the Lords of Home, while that of North Berwick employed a cadet branch of the same family in the form of the Humes of Polwarth. The nuns of Elcho turned at first to the family of Oliphant and later to the lairds of Wemyss, while those of Haddington sought the aid of the family of Hepburn.

It is, therefore, clear that the holders of the principal bailiaries of the Scottish regular houses in general possessed lands in close proximity to the ecclesiastical estates which they administered. But few of these ecclesiastical estates were centred entirely in one area. Most had detached portions which were often baronies and on occasion were regalities. These might be situated many miles distant from the principal bailiary and it was, consequently, impracticable for the bailie of the latter to be set over an estate which might lie outwith his own sphere of influence. In this case the geographical connection continued and the Church employed figures who held lands in that locality. It is for this reason that the precise location of the ecclesiastical lands in question must be determined to avoid confusion over what might appear to be the appointment of a distant nobleman to a bailiary.

It was for reasons of geography that the abbot and convent of Kelso, which is situated in the Borders, appointed members of the family of Hamilton whose lands lay in the Glasgow area as bailies of their barony of Lesmahagow. In 1456 James, Lord Hamilton, was appointed bailie of that estate and eighty years later the office was

TABLE 4

The geographical relationship between the lands of the bailie and the lands of his bailiary:

The detached estates of Monasteries

Estate	Location	Family	Location of Lands	Monastery
Auchtertyre	South Perthshire	Campbell of Lawers	Central Perthshire	Strathfillan
Barry	South Angus	Maule of Panmure	South Angus	Balmerino
Kylesmuir/Barmuir	Ayrshire	Campbell of Loudoun	Ayrshire	Melrose
Lesmahagow	Central Lanarkshire	Hamilton	Central Lanarkshire	Kelso
Murthly	South Aberdeenshire	Forbes of Towie	North-West Kincardineshire	Coupar-Angus
Musselburgh	Midlothian	Preston of Craigmillar	Midlothian	Dunfermline
Paisley ('Ayrshirelands')	Ayrshire	Wallace of Craigie	Ayrshire	Paisley
Torry	Near Aberdeen	Aberdeen burghesses	Aberdeen	Arbroath

still in the possession of that family with the appointment in 1532 of James Hamilton of Finnart to the bailiary. It must be clearly understood that when the abbey of Kelso appointed members of the family of Hamilton as its bailies, it was to this isolated barony alone and not to the whole abbey lands. The bailiary of the chief lands of the abbey, as has already been seen, was held by the family of Ker of Cessford.

A similar situation existed with the abbey of Paisley, whose bailies in its Ayrshire lands were the family of Wallace of Craigie. The principal bailiary of its Renfrewshire lands was held by the family of Sempill. The monastery of Melrose, whose chief bailies were until 1535 the Scotts of Buccleuch, conferred the bailiary of the detached estate of Kylesmuir and Barmuir, which lay in Ayrshire, upon the local laird, James Campbell of Loudoun. The abbey of Arbroath created a Hamilton of Bradhirst bailie of its detached regality of "Athkarmour", while to the bailiary of the barony of Torry, which lay on the outskirts of the burgh of Aberdeen, it appointed Gilbert Menzies, the provost, and William Rolland, one of the bailies of the burgh.

In the case of the abbey of Balmerino and the barony of Barry the problem was not so much one of distance as of communication. The abbey and its chief estates lay on the south side of the River Tay, while Barry lay across the estuary on the north side, near Carnoustie. It was, therefore, a matter of great convenience to appoint a member of the family of Maule of Panmure, whose lands lay in that area, to superintend its administration. In 1506 the bailiary of the barony was granted to Sir Thomas Maule and to the same man again in 1511. The barony almost certainly remained with the family from this time onwards, partly because of the convenience

TABLE 5

The geographical relationship between the lands of the bailie and the lands of his bailiary:

The United Order of Knights Templar and Hospitalier

Temple Lands	Family	Location of Lands
Fife	Spens of Pittencrieff	South-West Fife
Haddington	Cockburn (Cockum)	Lothian
Lennox	Buchanan of that Ilk	West Stirlingshire
Linlithgow	Linlithgow burgesses	Linlithgow

TABLE 6

The geographical relationship between the lands of the bailie and the lands of his bailiary:

The Arch**b**ishopric

Archdiocese	Location of Lands	Family	Location of Lands
Glasgow	Lanarkshire	Hamilton	Lanarkshire
St. Andrews	East Fife	Graham of Old Montrose Learmonth of Dairsie Betoun of Capildray	North East Angus East Fife Fife

of the arrangement and partly because of the difficulty in ousting a family of the locality. A parallel situation existed vis-a-vis the regality of the abbey of Dunfermline and the lordship of Musselburgh. In this instance it was the estuary of the River Forth which separated the latter estate from the core of the regality. For this reason in 1471 William Preston of Craigmillar, who held lands nearby, was said to be bailie to "oure abbay of Dunfermline".¹

The administration of the widely scattered lands of the united order of the Knights Templar and Hospitaller in Scotland presented similar problems which were tackled in an identical fashion. Some form of regional organisation appears to have existed and local men were appointed to be bailies of these regional divisions. In 1490 Alexander Spens of Pittencrieff was bailie of the temple lands within the sherifffdom of Fife and it was to members of the family of Buchanan that the order turned to supply its bailies in the earldom of Lennox in the late fifteenth century, while in Haddington and Linlithgow local men were again employed.

Considering now the realm of the secular clergy, no significant variation in the pattern so far observed may be discerned. Information concerning the principal bailiary of the archbishopric of Glasgow is not abundant, but of the two bailies identified, James, earl of Arran, Protector and Governor of Scotland, did indeed hold lands in the vicinity of the archiepiscopal see. Similarly, the principal bailies of the regality of St. Andrews hailed from the vicinity, save one Robert Graham of Old Montrose (Aldmonros) who appeared in 1459. He may well have been acting only on a special remit. Otherwise, two families are apparent acting as bailies in

1. H.M.C. Rept., II (Montrose), p. 167, no. 34.

TABLE 7

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Diocese

Diocese	Location of Lands	Family	Location of Lands
Aberdeen	Aberdeenshire	Gordon of Huntly	Aberdeenshire
Brechin	East Angus	Dempster of Auchterless Ogilvy of Airlie	Aberdeenshire West Angus
Galloway	Wigtonshire	Kennedy of Cassilis	Ayrshire

TABLE 8

The geographical relationship between the lands of the bailie and the lands of his bailiary:

The detached estates of bishoprics

Estate	Location	Family	Location of Lands	Bishopric
Aberlady	East Lothian	Broun of Colstoun Lauder of the Bass	East Lothian East Lothian	Dunkeld
Bishop- and Muckartshires	South-East Perthshire	Douglas of Lochleven	Kinrosshire	St. Andrews
Carstairs	East Lanarkshire	Somerville	Lanarkshire	Glasgow
Keig and Monymusk	Central Aberdeenshire	Forbes	Aberdeenshire	St. Andrews

TABLE 8 (Contd.)

Estate	Location	Family	Location of Lands	Bishopric
Lethnot and Ellon	East Aberdeenshire	Cheyne of Esslemont	East Aberdeenshire	St. Andrews
Stow	Midlothian	Borthwick	Roxburghshire	St. Andrews
Tynninghame	East Lothian	Lauder of the Bass	East Lothian	St. Andrews

the period under consideration. The first was that of Learmonth of Dairsie and the other for the period of the Betoun supremacy was that of Betoun of Creich. Both families were members of the Fife class of lairds.

Likewise, the bailies of the bishoprics were local men. At Aberdeen a Gordon of Huntly was bailie from about the year 1549. At Brechin in the third quarter of the fifteenth century the bailies were members of the family of Dempster of Auchterless and possibly thereafter, of the family of Ogilvy of Airlie. Finally, the bailie of the bishopric of Galloway was Gilbert, earl of Cassilis. In each instance the Scottish bishops and archbishops had called upon local figures to act as their bailies.

These great secular institutions, like the monasteries, also possessed detached lands and pursued an identical policy with regard to them. The bailie of the barony of Carstairs, which belonged to the archbishopric of Glasgow, was Hugh, Lord Somerville, about the year 1517, while in 1471 to the bailiary of Dumfries was appointed Roger of Cairns, vicar of that place. To the most northerly estate of the regality of St. Andrews, that of Ellon, was appointed as bailie in the 1520s Patrick Cheyne of Esslemont. The bailiary of the estates of Bishop and Muckartshires was held by the family of Douglas of Lochleven. That of Tynninghame fell eventually to the family of Lauder of the Bass, while in the 1540s Lord Borthwick was bailie of the barony of Stow. In 1511 John Broun, laird of Colstoun, and in 1515 Robert Lauder of the Bass were bailies of the barony of Aberlady in north-west Haddingtonshire, which belonged to the bishopric of Dunkeld, while at one time a Forbes of Towie was bailie of the barony of Murthly, which belonged to the abbey of

TABLE 9

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Cathedral Chapters

<u>Institution</u>	<u>Location of Lands</u>	<u>Family</u>	<u>Location of Lands</u>
Glasgow	Lanarkshire	Sempill	Lanarkshire
Whithorn	South Wigtonshire	Kennedy of "Knockrewaulk"	South-West Scotland (?)

TABLE 10

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Collegiate Church

<u>Institution</u>	<u>Location of Lands</u>	<u>Family</u>	<u>Location of Lands</u>
Lincluden	South Kirkcudbrightshire	Maxwell of Pollok	South of Dumfries
Methven	Near Perth	Moncrieff of Tippermalloch Tyrie of Drumkilbo	Near Methven Near Methven

TABLE 11

The geographical relationship between the lands of the bailie and the lands of his bailiary:

The Parish Church and Chapel

<u>Institution</u>	<u>Location of Lands</u>	<u>Family</u>	<u>Location of Lands</u>
Wemyss	South of Fife	Colville of East Wemyss	South of Fife
Meiklefolla	Near Turrif, Aberdeenshire	Cruikshank of Darley	Near Fyvie, Aberdeenshire

TABLE 12

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Hospital

Hospital	Location of Lands	Family	Location of Lands
Eassie	Near Glamis	Lyon of Glamis	Near Glamis
Kingcase	Ayr	Wallace of Newton	Near Ayr
Trailtrow	Near Dumfries	Maxwell of Pollok	South of Dumfries
St. Leonard (Lasswade)	Near Edinburgh	Sinclair	Near Edinburgh

TABLE 13

The geographical relationship between the lands of the bailie and the lands of his bailiary: The Girth

Girth	Location of Lands	Family	Location of Lands
Tain	North-East Ross and Cromarty	MacCulloch of Plaids Innes	North-West Aberdeenshire Near Elgin

Coupar-Angus. In each instance local figures were appointed.

As far as may be determined a similar situation existed with the estates of the cathedral chapters. The bailie of the chapter of Glasgow in 1494 was John, Lord Sempill, while in the same period that of the chapter of Whithorn was a member of the family of Kennedy, John Kennedy of "Knokrewauch".

As was noted in the previous chapter, collegiate churches on occasion possessed bailies. The bailiary of the collegiate church of Lincluden was held by Robert, fifth Lord Maxwell, while that of the collegiate church of Methven was held by George Moncrieff of Tippermalloch and John Tyrie, the provost of the church. In each of these instances yet again men of the locality were appointed to the office.

Moving down the secular hierarchy, the level of the parish and the chapel is reached. There it is found that James Colville of East Wemyss was bailie of Mr. John Dingwall, vicar of Wemyss, while in 1541 David Cruikshank of Darley was the bailie of sir William Silver, chaplain of Meiklefolla (Mekil Folay) and held court on the latter's behalf.

The last ecclesiastical institution which might be fitted into the secular framework was the hospital. In 1476 Lyon, Lord of Glamis, was bailie of the hospital of Eassie. Robert, fifth Lord Maxwell, was bailie of the preceptory of Trailtrow. In 1535 Hugh Wallace of Newton was bailie of the hospital of Kinglase, while a Sinclair held the hospital of St. Leonard near Lasswade. Yet again local men rose to the fore.

The last ecclesiastical institution for which bailies have been identified was the ecclesiastical immunity of Tain. There the

local family of MacCulloch of Plaids was later succeeded by that of Innes. Both hailed from the locality.

It would appear, therefore, that in almost every instance the Church appointed as bailie a man who held lands or was resident in close proximity to the institution in question. This generalisation holds good for institutions, secular and religious, great and small, for principal regalities and detached baronies. North or south, high or low, the ecclesiastic chose as his bailie the man who possessed lands in the neighbourhood of his own. Geography was the principal determining factor in the choice of the bailie of an ecclesiastical estate .

Closely allied to the geographical factor was that of power and influence. The bailie had to possess lands in the vicinity of the bailiary but he also had to be a man of import. As has been seen, the dominant role of the bailie increasingly came to be that of defence. However, to defend an estate powers of physical coercion were necessary and these, in a feudal kingdom, came only with the possession of lands, jurisdiction and offices. The class of society which possessed these was the nobility and it was to the nobility of Scotland that the clergy turned for their bailies.

It is notoriously difficult to place men socially or in terms of power and prestige. A general impression is all that may be given. There are, however, certain guidelines. The title "lord" or "earl" meant that the personage was a member of the nobility. The territorial designation, preceded by the word "of" as in "Betoun of Capildray" meant that the figure was a member of the class of lairds, while the territorial designation, preceded by the word "in" meant that the figure was merely a prosperous tenant. In certain instances

members of the mercantile and professional classes were employed and were often referred to as burgesses, while those with no designation at all were of the lowest social order to perform the duties of the bailie. These norms aid in placing the family socially, but more detailed biographies are necessary to determine precisely the weight which a particular man might carry in a particular area. A Ker of Ferniehurst or a Scott of Buccleuch, though technically of the baronial class, possessed considerably more power than any of the "bonnet lairds" of Fife, such as the Colvilles of East Wemyss or the Kinnears of that Ilk. Moreover, at one time a family might produce a personage of great political significance, while his successor to the title might be under-age, young and inexperienced or incapable of statesmanship. Only by considering the biography of each bailie may some general impression be gleaned.¹ The method, though empirical, is sufficient to illustrate the point at issue, namely that political power and significance were integral to selection of the bailie of an ecclesiastical estate.

That the geographical situation of an ecclesiastical institution was primary to the choice of a bailie has already been noted, but geography allied to the factor of the kin-grouping could be decisive. It has already been stated that in certain parts of the country the influence of the kin group does seem to have been much stronger than in others and this was particularly the case in

1. The biographies of the greater figures i.e. those who feature in the Scots Peerage, outlined below, are in no way full. The intention has been merely to give an impression of their social and political position. Full biographies may be examined in the Scots Peerage. For those figures who do not appear in the above work an attempt was made to gather all relevant material from a variety of disparate sources, using Scottish Family History by M. Stuart and J. Balfour Paul, and Scottish Family Histories held in Scottish Libraries by J.P.S. Ferguson as the starting point.

the Borders and the south-west. So strong were the followings of the families in these areas that it was inconceivable that any save a member of the dominant family could hold the bailiary. This was particularly true of the regions dominated by the families of Home, Maxwell and Kennedy.

The situation in the Central Lowlands and north-east was slightly different from the more tribal north and south. In these regions too certain families did possess spheres of influence but they were not as clearly defined as elsewhere, nor were these families as excessively predominant as those in the border region. Often more than one family might vie for political supremacy in a single area. The Ogilvies and Lindsays fought out a two-hundred year long rivalry in Angus and Forfar, while in the west the earls of Eglinton and Glencairn similarly vied for power. In different regions certain families might hold some predominance, such as the Sempills in Renfrewshire, and the Oliphants in Strathearn, but these families did not have the semi-tribal following which was evident in the south. Partly this was due to the smaller areas of jurisdiction which they commanded, for in this portion of the kingdom there were more nobles evenly matched in power and prestige than was the case elsewhere. Partly it was due to the fact that royal power was stronger in this area, a factor which prevented the rise of a single family to political predominance. This permitted the ecclesiastical institutions in this region to appoint less powerful and, consequently, less overtly dangerous men to their bailiaries.

Into a marginally different category fell the sheriffdom of Fife and the area surrounding Edinburgh. In Fife no single noble family was predominant. It was a region of "bonnet lairds", while

the sheriffdom as a whole fell directly within the orbit of royal power and protection. There was consequently less threat to the Church in that area, with the result that men of lower social and political position could be appointed to the office.

Consequently, the class of man selected to act as bailie in each area of Scotland was different. At this stage the problem must be examined in greater detail. The first region to be considered is that of the Borders where geographical and political conditions favoured the survival of certain predominant families.

In the south-east the family of Home of Home secured the bailiaries of the priory of Coldingham, the abbey of Dryburgh, and the nunnery of Eccles, while a cadet line, the Humes of Polwarth, were the bailies of the nunnery of North Berwick. The family of Home became so powerful that no other could challenge its might.

The bailiary of the priory of Coldingham fell under the influence of the family of Home as early as the first quarter of the fifteenth century. In 1425 two cadet lines were involved, in the persons of Sir David Home of Wedderburn and Sir Alexander Home of Home, but the initiative was to lie with the latter branch of the family.¹ Sir Alexander succeeded to his father in 1424 and by the 1440s had become a powerful figure in the south-east. In 1448 he secured the office of sheriff-depute of Berwick, and in 1450 he travelled with the earl of Douglas to Rome. In 1451 he was an ambassador to England and a conservator of the peace. His over-all position in the area was consolidated by his marriage to Marion, daughter of Sir Robert Lauder of the Bass.² Alexander laid the

1. See Appendix I.

2. Peerage, IV, pp. 446-7.

foundations of the family fortunes, and the priory of Coldingham naturally turned to him to be the protector of their estates.

The family gained in power and status under his son. In 1465 the bailiary of the priory was granted hereditarily to Alexander Home in what is the earliest grant of the office in fee and heritage to come to light,¹ in itself an indication of the position of the Home family. Finally in 1473 the family reached the peerage, when Alexander was created the first Lord Home.² No other family in the region could challenge them.

Under Alexander, the second Lord Home, their power reached something of a peak. He was served heir to his grandfather in 1493 and in the same year the bailiary of the priory was again confirmed in the family. Even before he acceded to the title he had been active in the political affairs of the realm and had played a leading role in the events which led to the battle of Sauchieburn in 1488. During the reign of James IV he secured possession of many offices. He became a privy councillor and in 1488 was created Great Chamberlain for life. In 1489 he became Warden of the East Marches for seven years. He was the Custodian of Stirling Castle and the guardian of John, earl of Mar. In 1490 he became Bailie of Ettrick Forest and Keeper of Newark Castle, and 1491 he secured the office of Steward of Dunbar.³ By the end of the fifteenth century the family of Home had swamped the south-east of the kingdom with its influence, so that by now it was inconceivable that any save a member of the family of Home could be appointed to the bailiary of the priory.

1. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

2. Peerage, IV, p. 449.

3. Ibid., pp. 451-3.

Alexander, the third Lord Home, continued the Home predominance. He was cup-bearer to James IV, the Chamberlain of Scotland in 1507, the Warden of the East and Middle Marches, a councillor of Queen Margaret, and in 1514 the justiciar south of the River Forth.¹ It was this member of the family who was first mentioned as the bailie of the nunnery of Eccles in 1509,² another ecclesiastical office which the Homes added to their collection. However, in 1516 the family fell into disgrace with the execution of Alexander for treason, and their lands and offices, including the bailiaries which they held, were forfeited.³ Thus it was that in 1519 the only bailie of the priory who was not a member of the family of Home, a certain Patrick Cranstoun, held the office.⁴ But the disgrace lasted only a short while. In 1522 the family was rehabilitated and Alexander's brother, George, the fourth lord, was restored to all the family estates and offices including, specifically, the bailiaries of the priory of Coldingham⁵ and the nunnery of Eccles.⁶ The family of Home was too significant to be subdued for long.

By the sixteenth century their power in the south-east was all-pervading, an indication of this being their acquisition of the office of bailie of the border abbey of Dryburgh. Both George, the fourth Lord, and Alexander, the fifth Lord Home, held that office.⁷ Dryburgh lay slightly outwith the centres of their power, but still sought the protection which such a powerful family could provide. The history of the family of Home in relation to these border abbeys,

1. Peerage, IV, pp. 454-5.

2. See Appendix I for details, p.378.

3. Peerage, p. 456.

4. S.R.O., Fraser: GD86/83.

5. H.M.C. Rept., XII, pt. 8 (Home), p. 179, no. 305.

6. H.M.C. Rept., XII, pt. 8 (Home), p. 128, no. 130.

7. See Appendix I, p.351.

and in particular to the priory of Coldingham, is a fine illustration of an ecclesiastical institution, which was effectively swamped by the powerful local family, and became little more than an appanage of it.

The Middle Marches of the Borders were in a slightly different position from the rest of that lawless region, for there no single noble family was evidently predominant in the period under consideration. The three remaining border abbeys of Melrose, Kelso and Jedburgh were each to fall to different families, though the latter two were to be held by rival cadet branches of the family of Ker.

In 1473 the abbey of Kelso secured as its hereditary bailies the powerful border family of Ker of Cessford, in the person of Walter Ker.¹ Walter succeeded his father in 1481 and in 1484 was a commissioner for the settlement of border disputes with England on the East and Middle Marches.² He was, therefore, a man whose favour was to be curried and whose power was of significance in the border region.

Little is known of the office of bailie of the abbey of Jedburgh, save that in 1528 Sir Andrew Ker of Ferniehurst and his son were appointed joint bailies of the monastery,³ and in 1547 the bailiary became hereditary in that family.⁴ Once again the Church had chosen as its bailies a family of significance. In 1524 Sir Andrew secured possession of the royal bailiary of Jedburgh Forest. He held the office of Warden of the Middle Marches and was

1. Register of Supplications, vols. 691, fo. 293 recto; 694, fo. 35 recto.

2. Peerage, VII, pp. 326-7.

3. Ibid., V, p. 58.

4. S.R.O. Register of charters and leases by abbots and commendators of the abbey of Jedburgh etc., 1479-1596: Ch. 6/6/1, fo. 25 recto - 25 verso.

one of the commissioners to treat for peace with England in 1528.¹ His son, John, succeeded to the office of Warden of the Middle Marches about the year 1545² and continued the political and military predominance of the family in that region. The abbey of Jedburgh too had turned to the dominant local family for protection.

However, the family of Ker did not monopolise the offices of bailie in the Middle Marches, for the bailiary of the abbey of Melrose fell into the hands of the family of Scott of Buccleuch. In 1484 David Scott of Buccleuch was created bailie of the monastery.³ Although he was only of baronial status, or possibly because of it, he was much concerned with public affairs in the reign of James III, and was instrumental in suppressing a number of insurrections in the Borders.⁴ The bailiary became hereditary in the family in 1524 in the hands of Sir Walter Scott of Buccleuch, "Wicked Wat",⁵ who had previously in 1519 been created bailie of the monastery.⁶ He too was a force to be reckoned with in that region. He was probably knighted at Flodden in 1513. In 1524 he was warded in Edinburgh because of a dispute with the queen over rights to Ettrick Forest, but he escaped to join the parties of Lennox and Angus. Then in 1525 he was defeated by Angus in an attempt to free James V.⁷ From this account it is clear that he was much caught up in public affairs, and that his family, as a whole, was one of significance. It was for this reason that the abbey of Melrose had turned to them to act as their bailies.

1. Peerage, V, pp. 55-8.

2. Ibid., pp. 60-1.

3. Buccleuch, II, pp. 82-3, no. 84.

4. Peerage, II, p. 227.

5. Ibid., p. 228.

6. Buccleuch, II, pp. 133-4, no. 126.

7. Peerage, II, pp. 228-9.

The Central Borders, therefore, had no single dominant family. This facilitated freedom of choice for the wealthy and powerful abbeys situated in that region. In contrast to the situation in the east, where the Homes were all-powerful and the priory of Coldingham possessed no real choice as to who its bailies might be, these abbeys were in a position to select the most powerful men in their neighbourhood to act on their behalf, and this they did. But as the survey moves westwards another area, similar to that of the south-east, is encountered where the influence of a single family was all-pervading. It was to that one family that a number of ecclesiastical institutions turned for protection.

In the south-west, in Dumfriesshire and Kirkcudbrightshire, lay the conglomeration of religious houses, which included the abbeys of Holywood, Sweetheart, Tongland and Dundrennan, all of which fell under the sway of the powerful family of that area, the house of Maxwell.

As early as 1495, John, fourth Lord Maxwell, was appointed to the bailiary of the abbey of Holywood.¹ By this time the house of Maxwell was well-established, having reached the peerage earlier in the century. John was Warden of the West Marches in 1486 and attended the first parliament of James IV.² Apart from this information, little is known of him. It is, however, clear that by this time the family of Maxwell had established a predominance in the area.

In 1503 at the latest, the bailiary of the abbey of Sweetheart was added to the family collection of offices by the fourth Lord³

1. Carlaverock, II, p. 450, no. 61.

2. Peerage, VI, p. 478.

3. Carlaverock, I, p. 165.

and his son, Robert, fifth Lord Maxwell, acquired possession of the bailiaries of the abbeys of Tongland and Dundrennan.¹ Robert was an important figure in the affairs of the south-west and of the kingdom as a whole. In 1513 he was admiral of the fleet which sailed to France and at various times between 1513 and 1514 he was Keeper of Threave and Lochmaben Castles, the Steward of Kirkcudbright, the Warden of the West Marches, the Provost of Edinburgh, the Captain of the King's Guard, the Master of the Royal Household, the Chief Carver to the King and an extraordinary lord of session. He was one of the regents when the king was in France in 1536-7 and was Great Admiral of Scotland in 1538. Possibly most indicative of his power in the south-west was the number of bonds of man-rent which he held with the many lairds of the area.² Maxwell was a figure of influence both in the south and at the centres of government. He would have been well able to represent the interests of these abbeys and they had done well in securing such a powerful protector.

Finally in the far west, in Galloway, lay Kennedy country, and there too the Church sought the protection of the leading nobleman. The monastery of Glenluce, the bishopric of Galloway and the chapter of Whithorn all put themselves under the protection of members of the family of Kennedy.

In 1487 a certain John Kennedy of "Knokrewauch" was bailie of the priory of Whithorn.³ It has proved impossible to identify this man but the point of significance is that he was a member of the Kennedy family. In 1516 Gilbert, second earl of Cassilis, was created bailie of the regality of Galloway.⁴ In the same year he

1. Carlaverock, I, p. 175.

2. Peerage, VI, pp. 479-80.

3. S.R.O., Ailsa: GD25/1/147.

4. S.R.O., Ailsa: GD25/1/239; H.M.C. Rept., V (Ailsa), p. 615.

was an ambassador of the king of Scots to the king of England. He secured the office of chamberlain of Carrick, Leswalt and Manybrig and was Chancellor of Galloway. In addition he was one of the guardians of James V.¹ In 1523 he added to the office of ecclesiastical bailie of the monastery of Glenluce the office of justiciar of the same abbey.² His son, Gilbert, the third earl, secured another grant of the bailiary of that monastery in 1543.³ Like his father he was Chamberlain of Carrick, Leswalt and Manybrig. He was a man of affairs and attended parliament regularly from 1535 onwards, while in the local sphere he won numerous charters, grants of land and commissions of justiciary.⁴ That the family of Kennedy was predominant in Galloway is, therefore, evident but it is also clear that they took an important part in the affairs of the nation. By combining the dual role of territorial magnate with statesman, the Kennedys were the ideal choice as bailies for the ecclesiastical institutions in that region of the kingdom.

It is, therefore, clear that in the border, marcher and more distant southerly portions of the realm, where the Church was, in any case, in greater need of protection than in the more law-abiding central area, a small number of great and powerful families held sway. There it was to these families that the Church turned for aid because there was no other to whom it could turn and it tended to be somewhat at their mercy. It is no surprise to find that these southern abbeys were often the first to surrender completely their independence of choice of bailie, which, as will become clear, may

1. Peerage, II, p. 464.

2. The Exchequer Rolls of Scotland, ed. G.P. McNeill, XV, p. 614.

3. S.R.O., Ailsa: GD25/1/451.

4. Peerage, II, p. 468.

often have been theoretical in any case, by making the office hereditary in one family. As early as 1465 the bailiary of the priory of Coldingham was granted hereditarily to the family of Home, while in 1473 the abbey of Kelso followed suit. In this instance the bailiary was conferred upon the family of Ker of Cessford. A glance at the table of hereditary grants of the office reinforces this point.¹ The bulk of the Scottish ecclesiastical bailiaries were not granted hereditarily until the *minority* of Mary, Queen of Scots. This in itself indicates the dependence of these ecclesiastical institutions upon the power of these border families.

The survey of Scotland is continued by moving slightly northwards, but remaining still in the west. Here the countryside was less lawless, and the nobility lacked the predominance which has been noted in the marches. Information concerning the bailiaries of two abbeys is available, and the situation, it will be seen, was slightly different from the south.

In 1540 the bailiary of the abbey of Kilwinning was granted to Hugh, first earl of Eglinton, for six years² and the office was made hereditary in the family in 1544.³ In so doing the abbey secured the aid and protection of a man, powerful in the locality, and in the sphere of public affairs. Hugh had been on the victorious side at the battle of Sauchieburn in 1488 and in 1489 he became a member of the Privy Council. In 1507 he was created earl of Eglinton. He played a prominent role during the minority of King James V, being appointed justice-general for the north of

1. See table 18, pp. 409-10.

2. S.R.O., Eglinton: GD3/1/723.

3. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 5.

Scotland until the king reached his twenty-sixth year. In 1535 he was created admiral-depute in the bailiary of Cunningham, and in 1536 he was appointed one of the vice-regents of Scotland, when the king was in France.¹ The abbey of Kilwinning had appointed a personage well able to represent its interests in court and country.

The neighbouring abbey of Paisley appointed a nobleman of slightly lower standing to be its bailie. In 1545 Robert, third Lord Sempill, and the Master of Sempill secured hereditary possession of the bailiary of the abbey. Lord Sempill was Governor of the king's castle at Douglas in 1533, and Sheriff of Renfrew in 1544.² His influence, therefore, tended to be centred in the west and for the purposes of the monastery of Paisley that was ideal.

The Church in the West Central Lowlands still turned to the peerage to provide its bailies. This was also the case for those abbeys which bordered upon the Highland region. Evidence is extant for two of these, the abbeys of Inchaffray and Inchmahome.

In 1491 John, first Lord Drummond, was bailie of the abbey of Inchmahome.³ Beginning his career as Sir John Drummond of Cargill and Stobhall, he was an example of a pushing and enterprising young laird who had made good. In 1474 he served in the offices of Steward, Coroner and Forester in the earldom of Strathearn. He was one of the commissioners who negotiated the proposed marriage of James III with Margaret de la Pole, and in 1488 he was elevated to the peerage, as a lord of parliament. He supported the victorious side at the battle of Sauchieburn and gained many

1. Peerage, III, pp. 434-5.

2. Peerage, VII, pp. 538-9.

3. Menteith, I, pp. 520-1.

grants from James IV, who appreciated his services.¹ The convent of the monastery of Inchmahome had found an able bailie in that man, as they did in his successors, the family of Erskine. In 1531 James, the brother of John, fifth Lord Erskine, another Perthshire nobleman, was bailie of the monastery² and was succeeded in the office by his descendants. Little is known of James, save that he married Christine Stirling of Keir, and died at a great age between the years 1592 and 1596.³ Though the office was granted to James, in effect it would be the services of John, Lord Erskine, which the abbey sought. He was one of the three lords appointed as personal guardians of James V. In 1540 the infant James was in his charge, while the king was on expedition to the Isles, and on the death of James V in 1542 the young queen was put in his care. He was Keeper of both Stirling and Edinburgh Castles, and his connections were yet further strengthened by his marriage to Margaret, the eldest daughter of Archibald, earl of Argyll.⁴ Quite obviously he was a highly trusted courtier who doubtless had the ear of the king. The convent of Inchmahome seem to have been skilful in finding such men to act as their bailies.

Further north the abbey of Inchaffray pursued a similar policy. In 1469 Laurence, first Lord Oliphant, a powerful figure both locally and nationally, was appointed bailie of the abbey.⁵ The convent of the nunnery of Elcho also secured him to act as their bailie in 1470.⁶ He was knighted before 1461 and created lord of parliament before 1464. He was Sheriff of Perth in 1470 and 1471

1. Peerage, VII, pp. 40-1.

2. S.R.O., Cardross: GD15/814, inventory, no. 1.

3. Peerage, V, pp. 608-9.

4. Ibid., V, p. 610.

5. Oliphant, pp. 13-14, no. 23.

6. Ibid., pp. 16-17, no. 28.

and appeared on the sederunt of the Lords of Council as a judicial body in 1479. In 1482 he was one of the Lords Auditors of Causes and he appeared in several subsequent parliaments. He was a collector of the king's rents in Methven, and an ambassador to England in 1484 and 1489 and later to France and Spain. His local importance may be best judged by the fifteen bonds of manrent which he accumulated.¹ He was obviously a person whose influence could be of benefit to the Church, as was his great-grandson, the third lord, who secured the hereditary tenure of the bailiary in 1544.² He played a role in the parliamentary and other public affairs of the realm, and was reckoned to be among the least pliable men of his time. He it was, who raised the family to their highest fortunes.³ The family of Oliphant were well able to look after the interests of the abbey.

In the most densely populated areas of the eastern and north-eastern Central Lowlands the pattern was slightly different. In this region close to the centres of royal power and protection the necessity of employing the higher nobility as bailies, for reasons of the power which they possessed, was not so pressing as in the less law-abiding parts of the kingdom. There were fewer members of the peerage in this area, and those which there were found less scope to extend their influence. Thus it was that in this region it was normal for the regular institutions to employ as bailies men of the baronial or inferior classes.

The two great monasteries of Holyrood and Dunfermline illustrate this well. Both lay in close proximity to centres of

1. Peerage, VI, pp. 540-1.

2. Oliphant, pp. 67-70, no. 119.

3. Peerage, VI, p. 544.

royal power, the abbey of Holyrood being adjacent to the royal palace in Edinburgh, and the burgh of Dunfermline being *a popular royal haunt* in the kingdom. The king was a frequent resident in both places.

Almost without exception the bailies of the monastery of Holyrood were of burghal or similar social origins, and only two may be placed even in the lower baronial class. This abbey was in the enviable position of requiring only the legal and none of the military services of the bailie, and for this reason was able to resist the incursions of the great noble families. In 1487 Robert Lauder, possibly some relation of the Lauders of the Bass, was said to be the bailie of the abbot Robert.¹ Indeed it is not until 1490 that the first member of the class of lairds is encountered in the form of Alexander Hepburn of Whitsome² (Quhitsum) who, to judge by his territorial designation, hailed from the Merse district of south-east Berwickshire, and was joint bailie with Mr. Richard Lawson (of Highrigg), who was justice-clerk.³ For the next two decades George Kincaid held the office,⁴ though in 1508-9 a certain John Crawford in Bonnington held the bailiary of Broughton.⁵ Kincaid was replaced in 1514 by a certain Oliver Broun,⁶ who in 1520 was joint bailie with Robert Monypenny of Pilrig.⁷ The latest reference to a bailie of the abbey was in 1530 to a certain Andrew Hamilton, as bailie of the abbot.⁸ All the bailies of the abbey of Holyrood, therefore, as far as may be determined, were of the lower baronial

1. Prot. Bk. Young, no. 71.

2. Ibid., no. 398.

3. J. Hadyn and H. Ockerby, The Book of Dignities, p. 516.

4. Prot. Bk. Young, no. 4, passim to no. 1833.

5. Ibid., no. 1889.

6. Ibid., no. 1988.

7. S.R.O., Miscellaneous: GD1/21/1.

8. Prot. Bk. Johnsoun, no. 13.

and professional classes, classes which by this time were by no means mutually exclusive. The monastery of Holyrood was fortunate in requiring the services only of men of ability and not of social position, and was fortunate also that these men were available. The situation of the abbey in the capital was a boon indeed.

The bailies of the abbey of Dunfermline were of a similar social order, save for the last decade or so of the reign of James IV. The earliest reference to be found to a bailie of the abbey is in 1502 to a certain David Couper.¹ Omitting at present discussion of the years 1502 to 1513² the next information on the bailies of the abbey comes only in the 1530s, when Archibald Betoun of Capildray was principal bailie of the abbey,³ and seems on occasion, to have shared the office with James Colville of Wemyss Easter.⁴ Both men were Fife lairds. Little is known of this intriguing member of the Betoun family. He was the son of John Betoun of Balfour, a cousin of Archbishop David Betoun and his lawful heir. He was justiciar and bailie of the regality throughout the whole period covered by the regality court book (October 1531 to March 1537/38) and for the last decade of his life he was the granitar and chamberlain of the archbishop.⁵ To judge by the extant records he appears to have been a first class administrator and to have devoted much of his time to the administration of justice. His raison d'etre as bailie was not coercive but administrative. James Colville was a man of similar background and experience. He was the son of Robert Colville of Ochiltree and the brother of William, the commendator of Culross. He had ecclesiastical connections. His

1. Melville, III, pp. 53-4, no. 55.

2. Below, pp. 161-3.

3. Dunfermline Court Bk., pp. 41-153 passim.

4. Ibid., p. 95, 98, 121.

5. Ibid., p. 154.

business training had been administrative and judicial. Prior to 1527 he had been Comptroller. He was a commissioner to parliament in 1531, a Director of Chancery, a Lord of the Articles, and on the institution of the College of Justice in 1532, one of the judges on the temporal side of the bench.¹ In both of these men the regality of Dunfermline had secured administrators and lawyers of the highest calibre. Neither the abbey of Holyrood, nor that of Dunfermline ever showed any sign of losing control over its bailies, because they appointed men to the office who were of insufficient status to effect any great measure of independence.

The situation was much the same in the rest of the shire of Fife. The Cistercian abbey of Culross, like that of Dunfermline, generally appointed to its bailiary men of lower status than was observable elsewhere in Scotland. The bailie of the abbey in 1481 was a certain David Stewart² who may have belonged to the family of Stewart of Rosyth. He was followed in that office by a local laird, Patrick Blackadder of Tulliallan.³ Little is known of the family save that it was "a respectable family of the county" of Perthshire.⁴ Once again a Fife monastery had recourse to a member of the minor baronage to act as its bailie.

A few miles from Culross on the estuary of the River Forth the island monastery of Inchcolm followed suit. In 1539 the bailiary of the abbey was granted to a member of the local baronial family in the person of Henry Stewart of Rosyth.⁵ He first appeared as a laird in 1518 but little is known of his career. He married Margaret, daughter of Sir Robert Douglas of Lochleven, thereby

1. Dunfermline Court Bk., p. 195.

2. S.R.O., Douglas: GD98/VI/1.

3. S.R.O., Cardross: GD15/153.

4. R. Douglas, The Baronage of Scotland, p. 142.

5. Inchcolm, no. LVIII.

acquiring a family connection with another Fife laird who held an office of bailiary. He was captured at the battle of Solway Moss in 1542 and was held prisoner in England for some time. His ransom for the sum of £80 is an indication that he was a figure of some standing.¹

Moving eastwards, but remaining on the estuary of the River Forth, the monastery of Pittenweem and May is encountered. This abbey pursued the by now familiar policy. In 1540 the office of bailie-principal of the monastery was held by a certain Thomas Scott,² who was almost certainly the same Thomas Scott of Fawside and Abbotshall, a neighbouring laird, who secured possession of the bailiary in fee and heritage in 1550.³

The last Fife monastery about which information is available is the Cistercian abbey of Balmerino, whose principal bailiary appears to have been held by the family of Kinnear of that Ilk.⁴ This was an old family, long settled in the area, and had ancient connections with the abbey, for as long ago as 1260 a grant of lands by that family to the abbey was confirmed by Alexander III.⁵ Despite its longevity, however, it never rose above baronial status.

And so it is clear that the policy of the regular institutions in the county of Fife, and indeed of the secular ones too, as will become evident, was to appoint as bailies members of the baronial class. Partly this was due to the absence of any over-mighty noble family, which held power in that area, but principally, it is to be suspected, it was due to the relatively stable political conditions, which existed in the region. The close proximity of the king

1. W. Stephen, History of Inverkeithing and Rosyth, pp. 187-8.

2. May, Appendix to preface, p. cv.

3. W. Wood, The East Neuk of Fife, p. 296.

4. J. Campbell, Balmerino and its Abbey, pp. 221-2.

5. Ibid., pp. 649-50.

produced stabilising conditions, which reduced the necessity of employing nobility of a higher calibre.

As the survey continues northwards the abbey of Scone is encountered. Here recourse was had at different times both to the higher and lower nobility. The earliest official of the type under investigation to be discovered for this abbey is Alexander Lindsay of Crawford, who acted as justiciar in the mid-fifteenth century.¹ In his short and violent career he was at the centre of public affairs. Succeeding to his father who was killed in the battle fought outside the abbey of Arbroath in 1446, "Earl Beardie", or the "Tiger Earl", appeared as the Sheriff of Aberdeen in 1450, as commissioner of the truce with England in 1451 and Guardian of the Marches in 1453, the year of his death.² To judge by his conduct at the abbey of Arbroath the convent of Scone were probably much relieved by his death. Certainly the men who replaced him were of lower social status.

At the end of the fifteenth century in the period before his death in 1493, the office of bailie was held for a time by Thomas Blair of Balthayock.³ The chief residence of this family was always in Fife or Perthshire. The family itself was of great antiquity and was of the established local laird's class. Little is known of this member of the family, though it was probably he who was involved in the settlement of several march inquests for Arbroath Abbey in 1483 and 1484.⁴ He was succeeded in the office some years later in 1506 by John Rattray of Rattray,⁵ who took to a military career and died

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1. Lord Lindsay, Lives of the Lindsays, I, p. 128, footnote no. 2.
 2. Peerage, III, p. 21.
 3. H.M.C. Rept., IV (Rattray), p. 536.
 4. R. Douglas, The Baronage of Scotland, pp. 186-8.
 5. H.M.C. Rept., IV (Rattray), p. 536.

soon after in Holland.¹ The same pattern of employing local lairds is observable in the last years of the period under study, when in 1540 Thomas Charteris of Kinfauns was bailie of the regality.² His was a family of strength in the locality with a particular interest in the burgh of Perth.³ Moreover, in this instance the connection with the family of Lindsay was retained, for his mother had been the daughter of the eighth earl of Crawford⁴ and he, himself, made a fine match with Janet, the daughter of Alexander Stewart and great grand-daughter of James II.⁵ The abbey of Scone, therefore, apart from one aberration seems to have pursued a consistent policy of securing as its bailies, men of the baronial class, men who were employed, as in the county of Fife, for their administrative skills, rather than their powers of coercion.

The abbeys of Coupar-Angus and Arbroath, situated in Angus, north of the River Tay, sought as their bailies in the bulk of the period under consideration, members of the family of Ogilvy of Airlie. The first four Lords Ogilvy were bailies of both monasteries. In 1465 and 1467 Sir James Ogilvy of Airlie was said to be the bailie of the abbeys of Coupar-Angus and Arbroath respectively.⁶ He was one of the conservators of the peace with England in 1484 and was created a lord of parliament in 1491. His marriages to Elizabeth Kennedy and later to Mary Douglas, the daughter of Archibald, earl of Angus, are an indication of the extent of his prestige.⁷ He was succeeded in 1504 by his son John, the second lord

1. R. Douglas, The Baronage of Scotland, p. 276.

2. Acts of Council (Public Affairs), p. 484.

3. T.H. Marshall, The History of Perth from the earliest period to the present time, pp. 59-60.

4. Peerage, III, p. 27.

5. Ibid., I, p. 153; IX, p. 10.

6. Coupar Chrs., II, no. CXXXIX; Arbroath, II, no. 174.

7. Peerage, I, p. 114.

of Airlie. He married Jean, the daughter of Lord Graham of Kincardine.¹ On his death in 1506 he was in turn succeeded by James, the third Lord Ogilvy. He was one of the lords of council and married Isobel Lindsay, the daughter of the earl of Crawford.² James, the fourth Lord Ogilvy, was served heir to his father in 1524 and was one of the extraordinary lords of session.³ To judge by what is known of their careers the Ogilvies of Airlie were not in this period members of the highest nobility. While they were possibly of a slightly more prestigious class than the bailies of the other abbeys in the area, the policy pursued by these abbeys did not differ vastly from that of their neighbours.

The last three monasteries about which evidence of their bailiaries is extant, namely those of Deer, Pluscarden and Kinloss all resorted to the baronial class for their bailies. In 1539 the abbey of Deer had as its bailie a member of the local class of lairds, Thomas Cheyne, seventh laird of Esslemont.⁴ This family seems to have been well-established locally and already it had connections with the office of bailie, as Patrick Cheyne, the father of Thomas,⁵ was bailie of the lordship of Lethnocht and Ellon, which lay in the regality of St. Andrews.⁶ In 1500 the abbot and convent of the priory of Pluscarden appointed as their bailie James Dunbar of Cumnock.⁷ His family were descendants of the Dunbars, earls of March and Moray.⁸ He was hereditary sheriff of Moray and took to wife, Elizabeth, the daughter of Sir James Ogilvy of Deskford.⁹

1. Peerage, I, p. 116.

2. Ibid.

3. Ibid., p. 117.

4. A.Y. Cheyne, The Cheyne Family in Scotland, p. 79.

5. Ibid., p. 78.

6. S.R.O., Errol: GD175/340.

7. Pluscardyn, pp. 235-6.

8. J. Paterson, History of Ayr and Wigton, I, p. 316.

9. Ibid., pp. 318-9.

Finally, further north the monastery of Kinloss turned to a laird of slightly greater standing. In 1539 the bailiary of the abbey was held by James Grant, third laird of Freuchie.¹ He seems to have been a figure of some importance in the area, of sufficient significance at least, to warrant the securing of a bond with him on the part of Cardinal Betoun in 1543, and for him to have taken to wife, Elizabeth Forbes, the daughter of John, sixth Lord Forbes.² Robert Reid, the abbot of Kinloss at the time,³ had made a sagacious choice for his bailie.

It is, therefore, clear that over Scotland as a whole in the late fifteenth and sixteenth centuries, the monasteries were turning to the nobility of greater and lesser degree to act as bailies to their estates. In the more lawless regions, where the dangers of physical attack upon the Church were greater and where the local nobility exercised a fuller degree of independence of royal control, it was to the greater nobility that the monasteries turned for the protection which they required. But elsewhere, it was men of merely local importance, who were employed. If they were powerful, this would doubtless have been an advantage to the monastery in question but in Fife, and to a lesser extent in the north-east, their principal function would simply be the implementation of justice to the tenants of the regalities.

As the earlier geographical survey has shown, many Scottish monasteries possessed detached lands, often situated far from the central core of their estates. These lands too required the

1. Grant, I, p. 106.

2. Peerage, VII, pp. 459-60.

3. Grant, I, p. 106.

services of a bailie, indeed possibly even more so than was normal, as they lay outwith the immediate control of the abbot. In almost every instance it was to men of baronial class that the monasteries turned for their bailies, saving only the barony of Lesmahagow, which belonged to the monastery of Kelso, and was granted to the family of Hamilton.¹

The border abbey of Melrose possessed the lands of Kylesmuir and Barmuir in Ayrshire. In 1521 the bailiary of these lands was conferred upon the powerful local laird, Hugh Campbell of Loudoun.² Campbell had himself been Sheriff of Ayr and was a well-connected personage. His first wife was Lady Elizabeth Stewart, daughter of the earl of Lennox, and he, himself, was a grandson of Sir Hugh Wallace of Craigie, the bailie of the lands of the abbey of Paisley in the county of Ayr. The convent of Melrose had found in Campbell a well-connected man of action, who could and did resort to violence. In 1527 he it was, who killed the earl of Cassilis.³ If physical protection of the abbey's lands were called for he would be well able to supply it.

In the same area lay the detached lands of the abbey of Paisley, whose bailies in the pre-Reformation period were the family of Wallace of Craigie.⁴ Little is known of this family. In 1468 Sir William Wallace was Comptroller. In 1498 John Wallace sat as a baron in parliament, while another of the same name in 1543 played some part in Anglo-Scottish politics.⁵ From this it may be concluded that they were a baronial family, which on occasion could

1. Below, pp. 135-6.

2. Melrose, no. 598.

3. J. Paterson, History of the Counties of Ayr and Wigton, III, pp. 546-7.

4. G. Chalmers, Caledonia, VI, pp. 823-4.

5. J. Paterson, History of the Counties of Ayr and Wigton, I, pp. 285-7.

play a role of some importance. For them to have partaken of public affairs it might be assumed that they were of some significance in their own locality.

The abbey of Balmerino dealt with the problem of the barony of Barry by appointing as bailie of the lands in 1506, and again in 1511 Sir Thomas Maule of Panmure.¹ Maule is known to have made several donations to religious houses and fell at Flodden in 1513.² Though this family was later to reach the higher echelons of the nobility, at this stage it could scarcely claim to have risen beyond that of the minor baronage.

In 1471 William Prestoun of Craigmillar was bailie of the barony of Musselburgh, in the regality of Dunfermline.³ He cannot be identified with certainty, but probably belonged to the baronial family of Prestoun, which possessed lands in the vicinity of Edinburgh. The family had risen in the social scale from that of being Edinburgh burgesses in the thirteenth century⁴ to secure, in the early seventeenth century, the title of Lord Dingwall.⁵ They were also a power to be reckoned with within the burgh of Edinburgh, attaining the office of provost.⁶ However at the time in question, Prestoun could scarcely be considered to be of the highest social standing.

The only detached barony to have as its bailie a member of the greater nobility was that of Lesmahagow, in Lanarkshire, which belonged to the border abbey of Kelso. In 1456 James, first Lord Hamilton, was appointed bailie.⁷ He was the first of that family

1. Panmure, II, pp. 269-70; S.R.O., Fraser: GD86/53, and Panmure, II, p. 280.

2. Peerage, VII, pp. 9-10.

3. H.M.C. Rept., II (Montrose), p. 167, no. 34.

4. Peerage, III, p. 118.

5. Ibid., p. 121.

6. The Lord Provosts of Edinburgh, ed. M. Wood, p. 4.

7. H.M.C. Rept., XI, pt. 6 (Hamilton), pp. 213-4, no. 134.

to take a prominent place in Scottish history. He was elevated to the peerage in 1445 and in 1450 he accompanied the earl of Douglas to Rome. In 1455 he turned to the king's side and was created Sheriff of Lanark. He was a frequent attender at parliament and was named in many commissions to treat for peace between Scotland and England. The convent of Kelso had shrewdly acquired the services of a family of promise and one which would represent well their interests in the west of the kingdom.¹

The bailiary of that barony, moreover, remained within the possession of the family of Hamilton. In 1532 Sir James Hamilton of Finnart, the eldest bastard son of the earl of Arran, was appointed to the office.² Finnart was one of the most remarkable men of his day. From 1526 to 1539 frequent grants of lands were made to him, and he secured by purchase or favour large estates. In 1536 he became principal steward of the king, and was the architect and master of works on the royal palace of Linlithgow.³ At the time of the grant of the office and immediately after it, it must have appeared to the convent of Kelso that they had gained the services of a most beneficial servant.

It is, therefore, clear that the monasteries sought also men of calibre to act as the bailies of their detached estates. Generally, among the regular institutions of the country, save in the case of the barony of Lesmahagow, where the abbey of Kelso gained the aid of one of the most powerful families in the kingdom, it was to men of baronial rank that the Church turned to secure the lay bailies for its ecclesiastical estates.

1. Peerage, IV, pp. 349-52.

2. R.M.S., III, 1220.

3. Peerage, IV, p. 361.

The nunneries of Scotland were few in number and for the reasons outlined in an earlier chapter, were possibly even more vulnerable to the disreputable elements of society than were their male counterparts. However the pattern as regards the type of bailie, which the nunnery secured, was identical to that of the monastery.

The nunnery of Eccles was situated in the border village of that name, in Berwickshire, in the heart of the Home country. As might be expected, therefore, it was to the family of Home that the nuns turned for their bailies. In 1509 Alexander, second Lord Home, was bailie¹ and on the rehabilitation of the Home family in 1522 the third, fourth and fifth Lords Home similarly followed in the office.² The nunnery of Haddington, one of the largest and wealthiest of Scottish regular institutions for women³ lay in the heart of Hepburn country and it is, therefore no surprise to find members of that family acting as its bailies. Indeed, as one historian has commented, "a large part of the history of the nunnery throughout the sixteenth century may be summed up in one phrase - the House of Hepburn".⁴ In 1530 a certain Louk Hepburn was "bailze to the prioress of Haidintoun",⁵ while in 1531 the bailie was John Hepburn.⁶ Though the next definite evidence dates only from some thirty years later, there is every reason to believe that the Hepburns monopolised the office in the intervening period. At the time of the Reformation Lord Bothwell was bailie and Patrick

1. See Appendix I for a discussion of the question.

2. See Appendix I.

3. G. Donaldson, 'The Cistercian Nunnery of St. Mary, Haddington, in the sixteenth century', Transactions of the East Lothian Antiquarian and Field Naturalists' Society, V (1952), pp. 18-19.

4. Ibid., p. 14.

5. S.R.O., Protocol Book of Alexander Symson: B30/1/2, fo. 14 verso.

6. Ibid., fo. 23 verso.

Hepburn of Beinstoun was bailie-depute to the nunnery.¹ The nunnery of Elcho in Perthshire, likewise, found a local family to protect it. In 1470 Laurence, Lord Oliphant, who, as has already been seen, was bailie of the neighbouring monastery of Inchaffray, was appointed to the office,² but by the 1550s the bailiary, now hereditary, had passed to another local family, that of Wemyss of that Ilk in the form of Sir John Wemyss in 1552.³ He was allied to Arran's party and twice married well into the families of other local lairds. He was of a lower social class than Oliphant, but probably had the additional advantage of possessing lands adjacent to the abbey at Wemyss Elcho.⁴ In each instance the practice of appointing a local noble of some power was followed.

There is evidence also that the orders of friars employed bailies. In 1520 Andrew Bunch, a bailie of the burgh of Perth, was also bailie of the friars preacher.⁵ In 1533 John Peebles, a burgess of the burgh, was similarly cited,⁶ while in 1545 a certain Robert Eviot in Mireton (Myrtoun) was said to be the bailie.⁷ To judge by his territorial designation he was a prosperous tenant. Finally in 1490 James Cockburn of Newbigging acted as the bailie of the Minister Provincial, Warden and Convent of the Friars Minor of Haddington.⁸ Cockburn hailed from Musselburgh, and it would seem that at that time his family was of at least three generations standing.⁹ He was certainly not of a great baronial family. As might have been expected, the relative poverty of the orders of

1. S.R.O., Book of Assumptions: E48/1/1, fo. 166 verso.

2. Oliphant, pp. 16-17, no. 28.

3. Wemyss, I, p. xxiv; ibid., p. 136 and note 2.

4. Ibid., p. xxiv.

5. The Blackfriars of Perth, ed. R. Milne, p. 123.

6. Ibid., p. 125.

7. Ibid., p. 211, app. XVI.

8. S.R.O., Miscellaneous: GD1/39/5/2.

9. Peerage, V, p. 289.

friars did not attract men of great wealth to act as their bailies, while their situation within the burghs of Scotland removed any pressing necessity for physical protection. They could and did content themselves with bailies drawn from the lower baronage and more prosperous tenantry.

As was indicated earlier the knights templar possessed a nationwide organisation of bailies and bailiaries to oversee their lands and tenements. A number of these bailies have been identified, and as might be expected with the size of the lands involved, they were drawn from the baronage and burgess classes, and within the burghs were probably always burgesses.

The intermixture of these two classes is well illustrated by the example of the temple bailiary of Haddington. In 1448 a certain James Cockburn, who was presumably some relation of William Cockburn of Langton and of that Ilk,¹ was bailie.² By 1532, however, the office was held by a certain Thomas Irvine,³ who was probably a burgess of Linlithgow, as he acted also as templar-bailie within that burgh.⁴

The family of Buchanan of that Ilk appear to have monopolised the temple-bailiary of Lennox, at least in the fifteenth century. In 1479 Walter Buchanan of that Ilk was bailie.⁵ He was the fifteenth laird of Buchanan and had married well with a daughter of Lord Graham.⁶ By 1493 Walter had appointed a certain Robert Buchanan as his depute.⁷ He was possibly Robert Buchanan of Leny,

1. T.H. Cockburn-Hood, The House of Cockburn, p. 50.

2. Newbattle, nos. 287, 288.

3. Laing Chrs., no. 388; M.S., 2180 Box 55.

4. Prot. Bk. Johnsun, no. 72.

5. S.R.O., Fraser: GD86/30; Register House Charters: RH6/478.

6. W. Buchanan, History of the Ancient Surnames of Buchanan, p. 27.

7. H.M.C. Rept., Various Collections, V, p. 84.

who had married Robert's daughter and was a son of Robert, fifth laird of Leny.¹ The Buchanans appear to have been a family of middling baronial status.

In the temple bailiary of Fife the office was held in 1490 by Alexander Spens of Pittencreiff,² who cannot be identified, but to judge by his territorial designation, was obviously a Fife laird, while the office in Ayrshire was held by a certain Charles Campbell in 1532.³ In the sheriffdoms of Angus and Gowrie the bailie was Thomas Scougall.⁴

Certainly the united order was not above employing burgesses as its bailies. In 1497 James Ross, burgess of Edinburgh, was the temple-bailie (*ballivus templarius*) in Edinburgh of William, preceptor of Torphichen.⁵ In March 1533/4 Thomas Irvine (Evin) and Henry Pollart were temple-bailies in the burgh of Linlithgow⁶ and in April, 1541 Pollart was again bailie.⁷ Over-all, therefore, it would appear that the united order of the Templars and Hospitallers recruited its bailies from the lower sections of the nobility, and probably from the upper sections of the burgess and professional classes.

Next an examination of the practice of bailiary as it existed among the secular institutions of the kingdom may be undertaken. In general the bishoprics seem to have employed men of baronial status as their bailies, and to have avoided recourse to the higher nobility. Probably this was due to the fact that, save for the see

1. J.G. Smith, Strathendrick and its Inhabitants from Early Times, pp. 286-7.

2. S.R.O., Register House Charters: RH6/558.

3. Prot. Bk. Ros, no. 1305.

4. S.R.O., Rossie Priory: GD48/22/4.

5. Prot. Bk. Young, no. 868.

6. Prot. Bk. Johnoun, no. 72.

7. Ibid., no. 255.

of Whithorn, the episcopal seats of Scotland were all situated in relatively powerful burghs in the central and north-eastern Lowlands, with their lands surrounding them. The necessity for a considerable degree of physical protection was consequently less.

Information regarding the bailiary of the bishopric, or from 1492, the archbishopric of Glasgow is relatively scarce. Only two figures have been discovered acting as bailies in the chief bailiary of the regality. The first was Patrick Blackadder and the second James, earl of Arran. Both will be considered later.¹

As regards the principal bailiary of the bishopric, and from 1472 the archbishopric, of St. Andrews, the situation was similar, and information is also lacking. In 1459 the bailie of the bishop was Robert Graham of Old Montrose (Aldmonros),² but from the beginning of the sixteenth century, save for a period of Betoun hegemony, the office lay in the hands of the family of Learmonth of Dairsie.³ In 1506 David Learmonth was bailie and chamberlain of the archbishop, Alexander Stewart,⁴ and in 1511 was still chamberlain.⁵ After a period of almost forty years the family re-appeared in the office in the person of Patrick Learmonth of Dairsie.⁶ Little can be said of this family, save that they were of the lower baronial class, they served as provosts of the burgh of St. Andrews, and at times came close to controlling the burgh.⁷

However, for a period in the 1530s, and possibly longer, the offices lay in the hands of various branches of the family of Betoun,

1. Below, p. 157.

2. S.R.O., Dalhousie: GD45/27/80.

3. See Appendix I.

4. H.M.C. Rept., VII, pt. 2 (Southesk), p. 720, no. 38.

5. S.R.O., Dalhousie: GD45/13/303.

6. S.R.O., Blebo: GD 7/1/7.

7. A list of provosts is printed. D.H. Fleming, The Municipal Relics of St. Andrews, and some of its early Provosts, pp. 8-9.

due doubtless to the presence of James and then his nephew, David Betoun, as archbishops of Scotland's metropolitan see. In 1534 John Betoun of Creich appeared as justice-general,¹ while from about the year 1541 to 1544 Archibald Betoun of Capildray, who had earlier been bailie of the abbey of Dunfermline, and whose social position was considered above,² was steward and bailie of the regality.³ John Betoun was the second laird of Creich and Nether Rires and was much concerned with the duties of estate management of his own lands.⁴ Both these men were members of the Fife baronial class, and almost certainly held these offices because of their connections with the archbishop. Over-all, therefore, the archbishops appear to have pursued a policy of employing Fife lairds as their bailies. This, like the monasteries situated in that county, they could afford to do, as that region was possibly the safest and most secure from lawlessness in the kingdom as a whole.

There is evidence also concerning the bailiaries of four other Scottish bishoprics, and in the period up to the 1540s the pattern observable in these was much the same as in the rest of the country. The bailiaries were conferred upon members of the baronial class.

Evidence is slight concerning the bailiary of the bishopric of Aberdeen. In 1524 Sir John Rutherford held the office.⁵ By 1535 he had been replaced by William Lyon.⁶ Neither of these men have been identified, but were probably of the baronial class of the neighbourhood. However, by the time of the civil disorders, which marked the regency of Mary, queen of Scots, in the 1540s the diocese

1. Wemyss, II, pp. 156-7, no. 100.

2. Above, p. 127.

3. M. Sanderson, 'Kin, Freindis and Servandis, the men who worked with archbishop David Betoun', Innes Review, XXV (1974), p. 35.

4. W. Wood, The East Neuk of Fife, p. 123.

5. Aberdeen, I, p. 389.

6. Prot. Bk. Cristisone, nos. 152, 153, 154.

of Aberdeen was in greater need of protection. This it gained by the appointment of George, fourth earl of Huntly, to the office of bailie about the year 1449,¹ doubtless at the instigation of his brother, William, who was by that time bishop of the diocese.² Huntly had succeeded to his father in 1524 and was allied by marriage to William, Earl Marshal. He was a privy councillor in 1535, one of the regents of the kingdom in 1536 and a Warden of the Marches. In 1541 he secured the Sheriffship of Aberdeen, from 1542 was on the council of Queen Mary and in 1546 was the Lord Chancellor. In addition he made many alliances with his neighbours.³ In both court and country he was a prominent figure and was one, whom it might be supposed, the bishopric could scarcely avoid placating with the gift of its bailiary. The situation in Aberdeen was by this time analagous to that on the borders and in Galloway.

The bailies of the bishopric of Dunkeld in the period under consideration were of lower social position. In 1510 Thomas Towers⁴ and in 1542 John Bannerman⁵ were said to be bailies. These two men have proved impossible to identify.

Scotland's smallest bishopric, that of Brechin, had recourse for a spell to the family of Dempster of Auchterless as bailies, before jettisoning them in 1468, possibly in favour of the family of Ogilvy of Airlie.⁶ In 1460 David Dempster of Auchterless held the offices of bailie and chamberlain of the bishopric,⁷ and he was succeeded in these by another member of his family, Walter, possibly

1. Aberdeen, II, pp. 306-10.

2. Peerage, IV, p. 533; Watt, Fasti, p. 49.

3. Peerage, IV, pp. 534-6.

4. Rentale Dunkeldense, ed. R.K. Hannay, p. 268.

5. Laing Chrs., no. 461; M S., 690 Box 20.

6. Below, p. 389.

7. Brechin, I, no. 90.

his brother, by at least 1464.¹ The family were of old established baronial stock but though they had held the barony of Auchterless from the mid-fourteenth century,² they did not rise above that station during this period.

Finally, as might have been expected, considering the situation of the bishopric of Galloway in the heart of Kennedy country in the south-west of the kingdom, the bailiary of that bishopric was bestowed upon Gilbert, earl of Cassilis, in 1516.³ The position of that family has already been examined above.⁴

The bishoprics in general appear to have succeeded, in the early period at least, in employing as bailies, men of lower social class and consequently lesser physical power and prestige. However, this was largely dependent upon the geographical location of the see, the political conditions of the realm and the political fortunes of the neighbouring nobility. Thus it was that eventually a Gordon was to hold the bailiary of Aberdeen, a Hamilton that of Glasgow and a Kennedy that of Whithorn.

It has already been seen that the cathedral chapters existed as separate legal entities, possessing lands in their own right over which they set bailies.⁵ In general they tended to employ bailies of the same families as the bailie of the bishop, but this was not necessarily the case. In 1499 a certain William Mudie was bailie-principal of the prior and convent of the monastery of St. Andrews,⁶ which also, of course, acted as the cathedral chapter. Presumably he was a man of lower social origins in conformity with the policy pursued by the bishopric. The chapter of Whithorn,

1. Brechin, II, no. LVI.

2. W. Temple, The Thanage of Fermartyn, pp. 114-5.

3. S.R.O., Ailsa: GD25/1/239; H.M.C. Rept., V (Ailsa), p. 615.

4. Above, pp. 120-1.

5. Above, p. 87.

6. S.R.O., St. Andrews Charters: B65/22/156.

situated in the heart of Kennedy country, employed in 1487 John Kennedy of "Knockrewauch" as their bailie¹ and finally at Glasgow in 1494, the chapter showed some independence of the bishop in employing as their bailie, John, first Lord Sempill.² In each instance, therefore, the chapters employed men of the baronial or a lower class as their bailie, save that of Glasgow, which employed the newly ennobled Lord Sempill.

Just as the monasteries possessed detached baronies, the archbishoprics and bishoprics did likewise, and they pursued a policy identical to that followed by the institutions already examined. The two detached estates of the archdiocese of Glasgow, for which bailies have been discovered, both employed local personages of some importance. In 1471 the bishop of Glasgow followed the highly unusual practice of appointing to the bailiary of the lands of "Colinhath Rig" Mr. Roger Cairns, vicar of Dumfries,³ who was probably a competent and educated cleric of ability. The other barony, that of Carstairs, was in a slightly different position. To its bailiary in 1517 was appointed Hugh, fourth Lord Somerville.⁴ Born about the year 1486 he married well into the powerful family of Hamilton, his wife being Anne, the illegitimate daughter of James, first earl of Arran. From 1528 he found favour at court with the king.⁵ In this man the archbishopric had a useful tool whereby to solicit the ear of the king if it had need.

The policy pursued in St. Andrews, the richest of the Scottish dioceses was similar, and as there is a greater amount of evidence extant for this regality, the policy may be examined in greater detail.

1. S.R.O., Ailsa: GD25/1/147.

2. Glasgow, II, no. 467.

3. S.R.O., Broughton and Cally: GD10/5.

4. Origines Parochiales Scotiae, I, p. 124.

5. Peerage, VIII, pp. 15-16.

In Aberdeenshire the regality possessed the lordships of Lethnot and Ellon, and those of Keig and Monymusk. In both instances local nobility were appointed to the bailiaries. That of Ellon was, from the 1520s, held by the family of Cheyne of Esslemont, Patrick Cheyne being created bailie at some time during that decade.¹ In 1559, however, the lordship was united with that of Lethnot and the joint bailiary was bestowed upon Thomas Cheyne, seventh laird of Esslemont, conjointly with his father.² Little may be said of the family, save that it was of the baronial class and was established in the north-east.³ The other estate came under the influence of various branches of the family of Forbes. In 1524 Alexander Forbes in Findon, presumably some prosperous tenant, held the bailiary of the lands of "Petaquhy",⁴ which lay in the territory of Monymusk. In 1531 James Forbes of Auchintoul (Auchintovil) agreed to defend the monastery of Monymusk under similar terms to those generally associated with the office of bailie, though he was not in fact so called,⁵ while in 1539 William, the seventh Lord Forbes, was hailed as bailie of the united estates of Keig and Monymusk.⁶ The latter appears to have been a relatively prosperous nobleman of the north-east, who during his lifetime, succeeded in advancing the fortunes of his family. He married into the house of Sir William Keith of Inverugie and must have had the ear of the king, for in 1539 he was appointed one of the gentlemen of the royal bed-chamber.⁷ All in all, he was

1. S.R.O., Errol: GD175/340.

2. Kinloss, pp. 149-50.

3. A.Y. Cheyne, The Cheyne Family in Scotland, passim.

4. Prot. Bk. Cristisone, no. 48.

5. Ibid., no. 89.

6. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.

7. Peerage, IV, pp. 55-60.

a prosperous but not over-powerful member of the peerage, whose aid and protection would be of use to the regality of St. Andrews.

The third enclave lay somewhat nearer the heart of the regality. This was constituted by the estates of Bishop and Muckartshires, situated in south-east Perthshire. In 1507 Sir Robert Douglas of Lochleven was said to be bailie of Bishopshire.¹ As ever seems to be the case with the baronial families little is known of the man save that he was knighted in 1504, married three times the daughters of other lairds, and died at Flodden in 1513.² He was succeeded by a son of the same name who similarly married twice, once into the house of Balfour of Burleigh, and then into the more august house of Hay of Errol.³ He was bailie of the united estates of Bishop and Muckartshires in 1525.⁴ Consequently, the family was at this time little more than a baronial family of middling significance, but their fortunes were later to rise due to the close relationship with the family of Morton. On the death of Archibald, earl of Angus and Morton, in 1558 it was the son of the latter laird of Lochleven who became fifth earl.⁵ This family was certainly well connected, and was one whose favour it was worth currying. St. Andrews had done well in securing its aid.

The last two estates lay south of the Forth and seem to have attracted a more august class of aspirant. The bailiary of the lordship of Tynninghame in Haddingtonshire was granted in 1535 to James Stewart,⁶ eldest bastard son of James V.⁷ This grant will be considered later.⁸ In 1538 the latter leased the office to Sir

1. S.R.O., Morton: GD150/956.

2. Peerage, VI, p. 367.

3. Ibid., p. 368.

4. S.R.O., Morton: GD150/957.

5. Peerage, VI, p. 371.

6. Haddington, II, pp. 254-5, no. 351.

7. A.H. Dunbar, Scottish Kings 1005-1625, p. 238.

8. Below, p. 163.

Robert Lauder of the Bass for nine years¹ and in 1542 resigned it with papal approbation into the latter's hands.² This member of the Lauder family was already bailie of the neighbouring barony of Aberlady which belonged to the bishopric of Dunkeld.³ The Lauders were an old and established family, which had held the Bass since 1316. Robert was probably the first son of Robert Lauder of Edrington and Isobel Hay, daughter of the twelfth baron of Yester. He was therefore a well connected Lothian laird who took part in public affairs, supporting Mary of Guise and fighting the English in the Lothians.⁴ A remarkable indication of the authority of the Lauders and of their alliance to the Church is given by the number bearing that name among ecclesiastics in the 1540s.⁵ Lauder was an excellent candidate for the office of bailie in this troubled area, being a follower of the old church and a man of military inclinations.

The bailiary of the barony of Stow in Midlothian was held in 1543 by John, sixth Lord Borthwick,⁶ who was a figure of considerable significance. He was related to the Earl of Crawford through his wife, Isobel, the latter's daughter. He supported Arran and was a member of the privy council from 1545. In 1547 he was appointed Keeper of Hailes Castle and in 1560 Keeper of Liddesdale. Most interestingly he was one of only three lords to vote against the reformed Confession of Faith in the parliament of 1560.⁷ The archbishopric had yet again secured the assistance of one who may

1. Haddington, II, pp. 256-7, no. 355.

2. Ibid., p. 258, no. 357.

3. Acts of Council (Public Affairs), p. 29.

4. J. Stewart Smith, The Grange of St. Giles, pp. 178-80.

5. J.J. Reid, 'Early Notices of the Bass Rock and its Owners', Proceedings of the Society of Antiquaries of Scotland, XX (1885), p.65.

6. St. Andrews Formulare, II, no. 466.

7. Peerage, II, pp. 109-10.

have been a religiously motivated conservative of some power and influence.

Information is available with regard to the bailiary of the barony of Aberlady, which lay in Haddingtonshire, though it was actually part of the regality of Dunkeld, the principal Scottish highland diocese. In 1511 John Broun, laird of Colstoun, was bailie of the barony.¹ The Brouns were an old family, dating from at least 1120. "For the most part (they) seem to have lived quietly, residing on their lands, occupied in agriculture and governing" their estates.² With this experience of estate management they would be ideal bailies. This family was succeeded in 1515 by that of Lauder of the Bass in the person of Sir Robert Lauder,³ who has already been considered as the bailie of Tynninghame in the regality of St. Andrews.⁴ In both instances Dunkeld had chosen able barons of the area to act as their bailies.

Thus the policy pursued by the bishoprics and archbishoprics of Scotland with regard to the detached baronies which they held was identical to that pursued by the monasteries. In almost every instance recourse was had to a member of the local baronage, rather than the higher nobility, for, of course, those of lower social

1. Rentale Dunkeldense, ed. R.K. Hamay, pp. 258-60.

2. J.G.A. Baird, 'Papers of an old Scots Family (Broun of Colstoun)', Blackwood's Magazine, (July, 1907), pp. 57-8.

3. Acts of Council (Public Affairs), p. 29.

4. Above, pp. 147-8.

status had also to be placated with offices. This pattern seems to have been fairly consistent all over Scotland.

Still dealing with the secular hierarchy, the position of the bailie of the collegiate church may be considered. The bailies of only two of these institutions have been identified, namely those of Lincluden and Methven. The collegiate church of Lincluden was erected as such in 1389 on the petition of Archibald Douglas, Lord of Galloway.¹ A glance at a map, however, shows clearly that the church lay in the heart of the Maxwell country, and it is no surprise to find Robert, fifth lord Maxwell, acting as bailie of the church in the period after Flodden.²

Possibly more interesting was the fate of the collegiate church of Methven, which lay close to Perth. In 1499 two men were appointed as the joint bailies of the church, John Tyrie, the provost of the church, who will be considered later,³ and George Moncrieff of Tippermalloch.⁴ This particular representative of the family cannot be identified with certainty but the family was of some import being a cadet line of the Moncreiffes of that Ilk,⁵ and was still in existence in the eighteenth century.⁶ He appears however to have been successfully ousted from the office by Tyrie before 1505.⁷ It is apparent that the collegiate church also sought to secure its bailies from the same classes as other ecclesiastical institutions in Scotland.

1. Easson, Religious Houses, p. 182.

2. Carlaverock, I, p. 175 and footnote 1.

3. Below, pp. 158-9.

4. Methven, p. 34.

5. Notes and Queries, 2nd Series, III (1857), p. 38.

6. Ibid., II (1856), p. 371.

7. Methven, p. 34.

Evidence with regard to a number of the bailies of hospitals is also extant, though considering the number of these institutions which there must at one time have been, this is not great. On the western border of Forfarshire, near to the castle of Glamis, lay the hospital of Eassie, whose "protector and special bailie" in 1476 was Alexander Lyon, second Lord of Glamis,¹ a figure of considerable power and influence in that area. In 1461 he was appointed Keeper of the Castles of Kildrummy and Kindrocht, and from 1463 onwards he was a leading figure in the administration of the realm. He was a Lord Auditor of Parliament and a Lord of Council. His connections were further strengthened by his marriage to the daughter of William, Lord Crichton, the Lord Chancellor of Scotland.² It might appear strange for a hospital to have secured the protection of such a powerful figure, but it is to be suspected that the close proximity of the castle of Glamis left little choice to the hospital.

Turning from the north-east, the survey must for lack of evidence now consider the position in the south-west. The hospital of Kingcase was situated in Ayr and again the families of two local lairds figured as bailies. The hereditary bailies were the family of Wallace of Newtown,³ but for a period they seem to have lost possession to the Hamiltons of "Maknaristoun!"⁴ Nothing is known of either family save that they were of the baronial class. The Hospital of Trailtrow was situated in the county of Dumfries and, as might be expected, was yet again dominated by the house of Maxwell. Robert, fifth Lord Maxwell, was their bailie in the post-Flodden period.⁵

1. Register of Supplications, vols. 734, fo. 248 recto; 734, fo. 252 recto.

2. Peerage, VIII, pp. 273-4.

3. R.M.S., III, 62.

4. Ibid., 942.

5. Carlaverock, I, p. 175.

Moving yet further down the secular hierarchy, the level of the parish is reached and there is evidence of the existence of bailies for this lowly benefice. In 1531 the vicar of the parish church of Wemyss appointed James Colville of East Wemyss as bailie of his lands there.¹ This figure has already been encountered as bailie of the regality of Dunfermline, and his social position was discussed in that context.² He was certainly a man of influence and one well able to look to the interests of the vicarage.

Finally, at the lowest level of all in the secular hierarchy, it is surprising to discover that even chaplains employed bailies. In 1478 the chaplain of the altar of St. Mary³ was a certain John Crag,⁴ while the bailie of William Silver, chaplain of Meiklefolla, was David Cruikshank of Darley,⁵ to judge by his title a member of the baronial class, otherwise consigned to oblivion. These none too lucrative benefices did not attract a high social class of aspirant, but it is worthy of note that even at these levels, lairds could still be attracted by the office, and it was to men of this class that the benefice holders turned.

Outwith the principal division of the clerical hierarchy lay the ecclesiastical girths. Possibly the most famous was that of Tain in north-eastern Ross and Cromarty. To the bailiary of the sanctuary of Tain were appointed various members of the house of MacCulloch of Plaids. As early as 1458 William, the first laird of Plaids, was bailie⁶ and his successors, Angus, the second, and William,

1. Charters of the Collegiate Churches in Mid-Lothian, pp. 107-8, no. 39.

2. Above, pp. 127-8.

3. The altar of St. Mary presumably lay in the burgh of Stirling as the protocol book of Sir James Darow is alternatively known as the protocol book of the burgh of Stirling.

4. Prot. Bk. Darow, The Scottish Antiquary, X, p. 141.

5. Prot. Bk. Cristisone, no. 326.

6. Origines Parochiales, II, pt. 2, p. 429.

the third laird in whom the office was made hereditary, followed him.¹ Even in this instance it was to a local baronial family that the masters of the girth turned to secure their bailie.

Thus, from the above survey, it is clear that second only to the geographical situation of the lands of the bailie, came the question of the power which he could wield and his influence in court and country. The class of bailie employed by the church did vary from region to region and indeed from ecclesiastical institution to institution. In the areas of strong kin affiliation, or where law was rough and ready it was to the higher nobility that the Church turned for its bailies, but in the more settled central areas of the kingdom and in the instance of lesser estates and benefices it was members of the baronial class which the Church employed. At any rate from an examination of the type of men who held the office of bailie in late mediaeval Scotland it is clear that the vast majority hailed from either the greater or lesser nobility and were employed because of their status.

However, other factors could also influence the choice of bailie and given the social and family situation as it existed in Scotland, it is no surprise to find that many appointments to the office were made by reason of kin relationship between the benefice holder and the prospective bailie. This is an element which may be found in every type of ecclesiastical institution which existed in Scotland at that time.

Until a full and reliable monastic fasti is produced the extent to which the appointment of the bailie and of the benefice-holder was affected by factors of kinship cannot be

1. The Scottish Antiquary or Northern Notes and Queries, V (1891), p. 58.

precisely determined. All that may at present be done is to indicate where possible by means of the tools at hand¹ where members of the same family, or at least those bearing the same surname, held at one time or another both the chief lay and ecclesiastical offices. The lack of a reliable fasti means that instances where the family of the bailie never had possession of the benefice cannot with certainty be cited. However, it is clear that on many occasions the bailie and the benefice-holder were kinsmen.

With regard to the houses of male religious, no fewer than ten examples have been found where the possessor of the benefice and his bailie bore the same surnames. The monopoly of the office of bailie of the Priory of Coldingham by the family of Home of Home was complete from 1442, but it was only in 1465 that that branch of the family secured possession of the benefice.² In that year John Home, son of Alexander Home, the bailie of the priory, secured the priorate and held it, apparently continuously, until the

1. The following works were of assistance in determining the succession to many regular prelacies. (a) M.E.C. Walcott, The Ancient Church of Scotland. This old work contains lists of prelates but must be used with caution. (b) P. Norbert Backmund, Monasticon Premonstratense, II, pp. 92-118. (c) J. Morton, The Monastic Annals of Teviotdale. This work lists the abbots of Dryburgh, Jedburgh, Melrose and Kelso, but is old and must again be used with caution. (d) J. Campbell, Balmerino and its Abbey. (e) The Correspondence, Inventories, Account Rolls and Law Proceedings of the Priory of Coldingham, ed. J. Raine, pp. xvi - xvii. (f) M. Dilworth, 'Coldingham Priory and the Reformation', Innes Review, xxiii (1972), pp. 115-137. (g) J. Cameron Lees, The Abbey of Paisley. (h) The introductions to the printed chartularies of many monastic houses also contain rudimentary fasti, especially those of the Bannatyne Club and Scottish History Society.

2. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

end of the fifteenth century.¹ Thereafter members of the family held the benefice on a number of occasions, Ninian Home (1505-08), John Home (1509) and David Home (1513-17) in the pre-Reformation period.² The family of Ogilvy had possession of the bailiary of the abbey of Coupar-Angus from 1465.³ About the year 1506 Thomas Ogilvy, third son of Sir John Ogilvy of Lintrathen, was stated to have been abbot of the abbey⁴ but there is no evidence of this.⁵ James Betoun was commendator of the abbey of Dunfermline 1522x1539⁶ and for a time at least during this period (1533-38), Archibald Betoun of Capildray was bailie of the regality.⁷ At some time in the year 1523 a certain John Maxwell had some title to the abbey of Holywood.⁸ The bailiary had lain in the house of Maxwell since 1495.⁹ In the same year Laurence Oliphant, clerk of Dunblane diocese, was provided to the abbacy of Inchaffray.¹⁰ He was the son of Laurence, first Lord Oliphant, who had been bailie of the abbey since about the year 1469.¹¹ In 1538 the bailiary of the abbey of Inchcolm was conferred for nineteen years upon Henry Stewart of Rosyth.¹² Five years later James Stewart, son of James Stewart of Beith, became abbot.¹³ Between the years 1519 and 1528 Thomas Ker was abbot of Kelso.¹⁴ The bailiary of the abbey had been

1. B. Dobson, 'The Last English Monks on Scottish Soil', S.H.R., xlvii (1967), p. 14.

2. M. Dilworth, 'Coldingham Priory and the Reformation', Innes Review, XXIII (1972), pp. 115-137.

3. Coupar Chrs., II, no. CXXXIX.

4. Peerage, I, p. 113.

5. Coupar Chrs., II, p. 274.

6. Dunfermline, p. xvi-xvii.

7. Dunfermline Court Bk., pp. 41-153.

8. Monasticon Premonstratense, II, p. 108.

9. Carlaverock, II, p. 450, no. 61.

10. Inchaffray, p. 255.

11. Oliphant, pp. 13-14, no. 23.

12. Inchcolm, no. LVIII; Register House Charters: RH6/1171.

13. Inchcolm, p. 242.

14. J. Morton, The Monastic Annals of Teviotdale, pp. 96-9.

held hereditarily in that family since 1473.¹ William Scott, apparently a son of Sir Walter Scott of Howpasly, was abbot of Melrose from 1504x06.² The family of Scott had held the bailiary of the abbey since 1484.³ The latter, however, forfeited possession in 1535 when the bailiary passed to King James V.⁴ Six years later at some time between 3 July⁵ and 6 November 1541⁶ James Stewart, his bastard son, became commendator of the abbey. Finally, in 1506 the abbot of Scone created his brother, Andrew Abercromby of Inverpeffray joint bailie of the abbey.⁷

What possibly is of even greater significance is that as far as may be determined, in eight of these cases, the family had already secured possession of the bailiary before any member had secured possession of the benefice. The two cases which are unclear are those of Dunfermline and Scone abbeys. This might appear to be contrary to expectation. The position of the abbot in determining the choice of the bailie is considered in a later chapter. His role was almost certainly decisive. It would be expected that he would appoint his own kinsmen to the office, and it might be suspected that this would be the easiest means whereby a family might gain access to a bailiary. But if the findings of this chapter are considered the pattern determined above is not astounding. The two principal factors which affected the choice of bailie were those of geography and influence. The bailie had to be a local landowner. The bailiary would, consequently, be the first

1. Register of Supplications, vols. 691, fo. 293 recto; 694, fo. 35 recto.

2. J. Morton, The Monastic Annals of Teviotdale, p. 238.

3. Buccleuch, II, pp. 82-3, no. 84.

4. Register House Charters: RH6/1107.

5. The Letters of James V, ed. R.K. Hannay and D. Hay, p. 425.

6. Ibid., p. 433.

7. H.M.C. Rept., IV (Rattray), p. 536.

office to be secured. When this had been effected the bailie would attempt from his position to insinuate a member of his family into the benefice. In this way an abbey could become little more than a family appanage. In fact, in almost all of the above instances, the family of the bailie did not monopolise possession of the benefice in subsequent years.

In a number of instances also, secular prelates appointed kinsmen to the office of bailie. Patrick Blackadder was bailie of the bishopric of Glasgow in 1487¹ in the middle of the episcopate of Robert Blackadder, his brother germane.² In 1545 James, earl of Arran, was created bailie of the archbishopric³ and two years later James Hamilton received crown nomination, but was rejected in the summer of 1548, ostensibly on the grounds of illegitimacy.⁴ The family of Betoun in the persons of James and then David monopolised the primatial see of St. Andrews from 1521-46.⁵ In 1534 John Betoun of Creich was justice-general of the regality,⁶ while from about the year 1541 to 1544 Archibald Betoun of Capildray was steward and bailie of the regality.⁷ As early as x1515 a member of the family of Gordon, a certain Alexander Gordon, was bishop of Aberdeen.⁸ Then again in 1545 William Gordon became bishop of the see⁹ and about the year 1549 he appointed his brother George, earl of Huntly, heritable bailie of the bishopric.¹⁰

1. H.M.C. Rept., X, pt. 1 (Stirling-Maxwell), p. 66, no. 20.

2. J. Dowden, The Bishops of Scotland, p. 331, note 2.

3. H.M.C. Rept., XI, pt. 6 (Hamilton), p. 221, no. 161.

4. Watt, Fasti, p. 149.

5. Ibid., p. 298.

6. Wemyss, II, pp. 156-7, no. 100.

7. M. Sanderson, 'Kin, Freindis and Servandis, the men who worked with archbishop David Beaton', Innes Review, XXV (1974), p. 35.

8. Watt, Fasti, p. 3.

9. Ibid., p. 4.

10. Aberdeen, II, pp. 306-10.

Finally in January, 1459/60 George Schoriswood, bishop of Brechin, attempted to oust David Dempster of Auchterless from the chamberlainship of the bishopric by the appointment of his brother, John and a Mr. David Guthre of Kincaldrum.¹

In contrast to what has been observed to be the practice in the regular houses, possession of the secular prelacy seems to have been the pre-requisite before the bailiary was granted to a member of one's family. The reason for this is not far to seek. Unlike the monasteries, the bishoprics were still a vital part of the Church. The bishops still played an important role in the government of the realm, as is seen by the careers of Andrew Forman and David Betoun. Crown control of appointment was, therefore, still strong. There was less likelihood of any particular family monopolising the benefice, though the see of Dunblane was a glaring anomaly to this generalisation.² Few noble families, as has been seen, managed to dominate the bailiaries of the bishoprics. In consequence, the only means whereby an episcopal bailiary could normally be secured along with the benefice was by the appointment of the bailie by a kinsman who was bishop. This pattern conforms with the conclusions already drawn about the relative independence of the bishopric as compared to that of the monastic houses.

A slight and unique variation on the kin element was provided by the appointment in 1499 and again in 1505 of John Tyrie, the provost of the collegiate church of Methven, to the bailiary of that place.³ Tyrie was provost from 1498-1519⁴ and there is no reason

1. Brechin, I, no. 90.

2. The family of Chisolm monopolised the bishopric for almost a century, from January 1487 to the post-Reformation period. J. Dowden, The Bishops of Scotland, p. 207.

3. Methven, p. 34.

4. Watt, Fasti, p. 368.

to believe that he was not bailie for the whole of that period. The "Tyries" were a very old Scottish family¹ and John was probably of the family of Drumkilbo.² Certainly the family had influence in that area and several members of the family were magistrates in Perth in the late fifteenth and early sixteenth centuries.³ Sir John had property in Perth in his own right and was a man of wealth. He also had the ear of the king for when in 1490 James IV visited Perth it was in the house of Tyrie that he stayed.⁴ The family was obviously powerful in the vicinity but that was not the principal cause of John's securing the office of bailie. This is the only instance, found to date, of an ecclesiastic appointing himself to the bailiary of his own benefice. He combined in a single person the supreme temporal and ecclesiastical offices. The appointment of oneself to an office in one's gift is an extended example of nepotism!

It is, therefore, clear that in a number of instances it was not the normal pre-requisites which explained the appointment of the bailie but the socially all-pervading and overpoweringly Scottish factor of nepotism.

But in a number of cases it was neither geography nor nepotism, but a different type of "influence" which determined the choice of bailie, combined with the everpresent necessity of placating the Scottish nobility. On occasion there were appointed as bailies of ecclesiastical estates, men who had no local pre-eminence, but might be of significance at the national level.

1. Scottish Notes and Queries, 2nd Series, III, p. 81.

2. Methven, p. 3.

3. Ibid.

4. A. Tyrie, The Tyries of Drumkilbo, Dunnideer and Lunan, p. 35.

Often their lands lay elsewhere in the country. It was inconceivable that these bailies who were of the highest level of society would ever actually perform the menial tasks of the office and indeed it is to be wondered if they ever actually set foot in their bailiaries. The office was to them a sinecure, and where the Church did have a choice in the matter, and when dealing with laymen of this calibre this is difficult to determine, they would be selected because of their influence at court and the force which their name would carry anywhere. Influence and patronage were a prerequisite of any form of security in the later middle ages, and this security might ultimately be gained at the royal court. With the possession of such a bailie the church could hope to have its interests safeguarded in the capital.

This was certainly the case in England where many of the highest noblemen might be found acting as bailies. Of the office as it existed in England it has been said that "it is hardly likely that the chief stewardship (*capitalis seneschallaria*) had attached to it any constant and definite duties: it was probably what we should call a sinecure; it was frequently held by a peer and often several monasteries had the same chief steward. The monastery needed him not for his work but for his influence, and especially at critical times when it would be important to have a strong man at court".¹ In 1535 Thomas, Duke of Norfolk, the most influential person in the kingdom after Cromwell, was chief steward of four monasteries and one diocese and the earl of Rutland was connected with six monasteries.² A similar state of affairs might be viewed

1. A. Savine, English Monasticism on the Eve of the Dissolution, p. 253.

2. Ibid., p. 255.

in Scotland in the same period, though to a lesser extent.

An exceptionally powerful local nobleman could combine all these functions. Men such as the earl of Cassilis and the Lords Maxwell and Home were powerful both locally and nationally but there are also examples of appointments in both kingdoms where no territorial connection can be established. The impression is that in Scotland this was a less frequent occurrence than elsewhere, the simplest explanation for this being the relative smallness of the kingdom geographically. The Lowland heart of the kingdom was considerably smaller than the kingdom of England, and in Scotland there was a tendency for many nobles to possess lands throughout the realm. It may well be that in the more law-abiding south of England the Church could afford the luxury of appointing as steward a man whose influence was purely courtly. A local presence may not have been necessary there. This was in certain instances totally impracticable in Scotland, where it would have been impossible for a Home to have been bailie of the monastery of Glenluce, in the heart of Kennedy country, or for a Kennedy to have been bailie of the monasteries of Coupar-Angus or Arbroath in Ogilvy dominated areas. The ties of kin and local loyalties were probably too powerful to allow for wide use of this practice as south of the border.

However such an appointment was made to the monastery of Dunfermline in 1502 when the bailiary of the abbey was granted to Sir Patrick Hepburn, first earl of Bothwell.¹ As the centre of Hepburn power lay in the Lothians it must be concluded that the

1. Register of Supplications, vol. 1150, fo. 139 verso.

monastery employed Hepburn because of his familiarity with the king. Bothwell was one of the favourites of James IV and a very powerful man at court. Under that king he rose to great power and secured many offices. He became Master of the Household, Custodian of the Castle of Edinburgh for seven years, Sheriff-principal of Edinburgh and Haddington, Constable of Scotland, Great Admiral of the Kingdom, Steward of Kirkcudbright, Bailie of Orkney and Shetland, Warden of the East Marches and Captain of Dunbarton castle. So close was he to the king that at the betrothal ceremony with Margaret Tudor in 1502, he stood in as proxy for James IV.¹ He was indeed a figure of great significance in the realm and an able defender of the rights of the monastery in court and capital.

On his death in 1508 the office passed to another nobleman, James Douglas, third Earl of Morton.² The motive behind this grant seems to have been similar to that previous. In 1505 as the Master of Morton he had been appointed procurator for James IV, but due to bad health he played little role in the public affairs of the realm.³ This last fact in itself would indicate that he can hardly have been chosen for his physical powers, but it is to be suspected that his name still carried weight in the kingdom.

In both these instances, therefore, men with no apparent geographical connection with the abbey were appointed to the bailiary. It may well be that the king himself, rather than the convent of the monastery had much to do with the appointment, and certainly at the time of the first grant the commendator of the abbey was James Stewart, the brother of the king. The fact that on the

1. Peerage, II, pp. 151-2.

2. The Exchequer Rolls of Scotland, ed. G. Burnet and A.J.G. Mackay, XIII, p. 242.

3. Peerage, VI, pp. 358-9.

death of James IV the bailiary seems to have returned, after this brief interlude, to men of lower status might be taken to support this view.

In 1535 the bailiary of the lordship of Tynninghame in the shire of Haddington, which belonged to the regality of St. Andrews was granted to James Stewart the eldest bastard son of James V.¹ James can have been only a few years old when this grant was made,² and it can have been made only for the prestige and protection which would accrue from this royal connection. He was the son of king James by Elizabeth Shaw of Sauchie, and later became commendator of Kelso and Melrose.³ Presumably this grant was made before a clerical career was mapped out for him. At any rate he leased the office in 1538 to Sir Robert Lauder of Bass for nine years⁴ and in 1540 resigned it into the hands of the latter with papal approbation.⁵ To judge by the character and career of the boy, the Church can only have been seeking to benefit from the influence which he would have.

Possibly as regards the bailiary of the archbishopric of Glasgow both influence and geography played a role in the selection of James, earl of Arran, as the bailie for nineteen years⁶ in 1545 but given the position of that man, it is to be suspected that the latter was not the dominant consideration. James, the second earl of Arran, became after 1542 the Governor of the kingdom as the nearest male heir to the throne and in 1549 he was granted the title of Duke of Chatelherault.⁷ Consequently, he could not possibly have

1. Haddington, II, pp. 254-5, no. 351.

2. James V, the boy's father was himself born on 10 April, 1512. (A.H. Dunbar, Scottish Kings 1005-1625, p. 224).

3. Ibid., p. 238.

4. Haddington, II, pp. 256-7, no. 355.

5. Ibid., p. 258, no. 357.

6. H.M.C. Rept., XI, pt. 6 (Hamilton), p. 221, no. 161.

7. Peerage, IV, pp. 366-7.

devoted any of his time to the office of bailie and his appointment was almost analagous to the most astounding appointment of all, that of the king himself to the bailiary of the abbey of Melrose in 1535.

In 1535 the abbot and convent of Melrose, whether of their own volition or not, secured as their "special protector, defender and bailie" of the abbey King James V.¹ In return for the king taking the abbey, its lands and tenants under his "protection, supply, maintenance, defence and safeguard"² the office of bailie was conferred upon him. In securing his aid the abbey could not have hoped to gain the protection of a more powerful individual. This unique grant epitomises the point which this section has attempted to emphasise. In certain cases even in Scotland it was general influence rather than local which might secure the bailiary of an abbey for a high-ranking nobleman. It is also worthy of note that those institutions which did indulge in this luxury all lay in the more law-abiding region of the kingdom, save that of Melrose. No-one was going to challenge the position of the by now strengthened monarchy in the Central Borders or Middle Marches.

As has been indicated, in many instances particularly among the higher echelons of the nobility the office of bailie was little more than a sinecure. The earl of Cassilis, the earl of Bothwell, the Lords Maxwell, Home and Erskine would, if they held high office at court scarcely have been involved in the management of their own estates far less those of the Church. Indeed as has already been seen they often appointed lay bailies to superintend their personal estates.³ Given the accepted role of the upper nobility in society

1. S.R.O., Register House Charters: RH6/1107.

2. S.R.O., Register House Charters: RH6/1107.

3. Above, pp. 78-9.

it would be totally impracticable for them to be involved in the day to day running of the estates under their charge or the holding of regality and bailie courts, particularly as was often the case if they held the bailiaries of a number of different institutions. It was, therefore, of prime importance that provision should be made for the implementation of the duties of the office, and it was at this point that the bailie-depute served his essential purpose. He might not hold the title to the office but it is to be suspected that it was upon his shoulders that the bulk of the work fell. Some attempt should, therefore, be made to establish the social class and position from which these bailie-deputes were drawn.

As is general in the case of lower officials, few of these men are known by name and even fewer may be identified. However, one abbey which yields more information than most on this subject is that of Coupar-Angus. No fewer than seven of the deutes up to 1544 are known by name. On 18 January 1460 a certain Patrick Ogilvy was bailie-depute of sir Thomas Livingstone, the commendator of the abbey.¹ This figure has proved impossible to identify with certainty but it is significant that he was a member of the family of Ogilvy which was later to secure the hereditary bailiary of the abbey. Eighteen years later on 8 May 1478 another member of that family John Ogilvy, probably "of Keillour"² was said to be bailie-depute.³ In these instances in all probability an Ogilvy as bailie principal was appointing kinsmen to the office. The other five deutes however did not bear the name of Ogilvy. On 6 May 1518 Antony Duby was bailie-depute⁴ but he defies identification. John Cumming of "Couty" served James Master of Ogilvy the principal bailie of the monastery in 1539.⁵ Again this man cannot be

1. Coupar Rental, I, p. 130, no. 72.

2. Coupar Chrs., II, p. 76.

3. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, p. xxvi.

4. Ibid., p. xxvii.

5. Coupar Rental, II, p. 298.

identified with certainty but Coultie is a hamlet in Bendochy parish one mile north-west of Coupar-Angus. He was therefore a local figure. The latter appears again as a depute in 1542, though this time he is termed "of Owtie", along with a certain William Blair of Balgillo.¹ It has proved impossible to identify this man, but his family by the beginning of the seventeenth century, if not earlier, possessed considerable lands in Forfar and Inverarity Lours.² Finally, on 24 April 1544 William Roger appeared as bailie-depute of the abbey.³ He was the son of William Roger, a life-renter on the abbey lands, and abbey steward from about the year 1508. He succeeded his father in that office to which he added the above.⁴

In 1540 the court of the priory of May was held by a certain David Knightson (Knychtsoun), bailie-depute of Thomas Scott, bailie-principal of the barony of Pittenweem.⁵ Knightson may have hailed from a family of Edinburgh burgesses or from a family of that name residing in Malleny in East Lothian.⁶ A prosperous burgess would possess the legal and administrative skills necessary for fulfilment of the duties of the office, and the town of Edinburgh was not far distant by boat, one of the fastest modes of travel in the middle ages.

On 20 June 1544, by the only grant of the office of bailie-depute to be discovered, James Grant of Freuchie, bailie of the barony of Kinloss, appointed Alexander Cumming of Altyre his bailie-depute.⁷

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1. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, p. xxviii.
 2. A.J. Warden, Angus or Forfarshire, III, p. 294.
 3. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, p. xxviii.
 4. Coupar Rental, I, p. xxxix.
 5. May, Appendix to preface, p. cv.
 6. Black, Surnames, p. 408.
 7. Grant, III, p. 90, no. 95.

This family was of baronial status and sited in the vicinity of Elgin and was of some antiquity, for the earliest mention of them was in 1384. Cumming himself was said to be a man of fine accomplishments.¹ Family connections between the bailie-principal and his depute were strengthened in 1552 when Margaret, second daughter of James Grant, third laird of Freuchie, married Thomas Cumming, the grandson and heir of Alexander Cumming of Altyre.² Cumming was still depute in 1553.³

Four other bailies-depute are known by name. In 1495 Patrick Blackadder of Tulliallan was ousted from the office of bailie-principal of the abbey of Culross by the earl of Argyll, but remained a functionary of the abbey to undertake the actual administration of the estates.⁴ This, therefore, falls into a slightly different category as the bailie-depute had earlier been full bailie and might be expected to hail from a higher social class than was the case with his colleagues. In fact this was so.⁵ In 1476 David Herries (Herice) of Derry was bailie-depute of the regality of Arbroath.⁶ He probably came from south-west Aberdeenshire, though the name was generally associated with Galloway.⁷ In 1490 Alexander Moneypenny was the depute of Alexander Spens of Pittencrieff, temple-bailie of Fife,⁸ while in 1493 Walter Buchanan of the Ilk had as his depute a certain Robert Buchanan.⁹

In all the above instances therefore the bailies-depute were of

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1. R. Douglas, The Baronage of Scotland, p. 334.
 2. Grant, I, p. 124.
 3. Ibid., p. 121.
 4. S.R.O., Cardross: GD15/153.
 5. Above, p. 128.
 6. Arbroath, II, no. 196.
 7. G.F. Black, The Surnames of Scotland, p. 356.
 8. S.R.O., Register House Charters: RH6/558.
 9. H.M.C. Rept., Various Collections, V, p. 84.

the lower baronage, prosperous land-owning or burgess and professional classes, who held lands or lived in relatively close proximity to the bailiary, which it was their function to administer. Never would these men be in a position to challenge the role of the bailie-principal owing to lack of power and prestige. The bailie-depute, the dogs-body, upon whom fell the bulk of the work of the administration of the ecclesiastical estate was a subordinate official of a class subordinate to that of the principal bailie.

In a slightly different category were the abbeys of Holyrood and Dunfermline. As has been noted these abbeys, because of their geographical position, were able to appoint and dismiss bailies at will. The position of the bailie-depute was therefore even more precarious. Fortunately a significant amount of information is available concerning the deputies of the abbey of Dunfermline.

Over a seven year period no fewer than fourteen different bailies-depute were employed by the abbey, the bulk of whom may be identified. All came from the lesser land-owning or burgess classes. Thomas Fyne was a miller,¹ Alan Cooper was bailie of the burgh of Dunfermline² as was Adam Blackwood,³ while William Frog "in Inveresk" was a bailie of Musselburgh.⁴ Others were landowners of little social import. Among these were William Durie,⁵ Walter Christie⁶ and John Gourlay,⁷ while Alexander Traill, the depute of greatest note socially was the eldest son of John Traill of Blebo, a local laird.⁸ John Creichtoun,⁹ Thomas Hunnan,¹⁰ Henry Cade¹¹ and John Lunan¹² have all proved impossible to identify, but were doubtless

1. Dunfermline Court Bk., p. 155.

2. Ibid., p. 171.

3. Ibid., p. 194.

4. Ibid., p. 207.

5. Ibid., p. 175.

6. Ibid., p. 182.

7. Ibid., p. 207.

8. Ibid., p. 171.

9. Ibid., p. 174.

10. Ibid., p. 176.

11. Ibid.

12. Ibid. p. 162.

of social background identical to their colleagues. The abbey of Dunfermline, as far as the bailies-depute were concerned, pursued a policy similar to that outlined for other ecclesiastical institutions.

The ecclesiastical bailies of late mediaeval Scotland, therefore, seem to have been drawn from four different classes of society. There were the magnates, who lent their name and influence to a monastery or bishopric and whose possession of a bailiary was almost certainly a sinecure. At a slightly lower level were the middle-ranking nobility, most of whom were lords of parliament, or were on the verge of receiving that honour. These men tended to acquire the bailiaries in the central region. Next were the local gentry whose friendship, being a power in the locality, it might be prudent of the Church to buy with a grant of the office of bailie. Finally, there were those of the burgess and professional classes, who possessed social aspirations. As has been seen the bailies-depute tended to be drawn from the latter two echelons of society.

Over-all the factors outlined above were those which determined the choice of bailie of a particular ecclesiastical estate. The principal factors were the geographical location of the institution in question in relation to the lands of the prospective bailie, and the political power and social position of the prospective bailie, allied to the factor of kinship. The overwhelming influence of these might often severely circumscribe the freedom of choice of bailie on the part of the Church. In many instances, particularly in the border regions, the Church had no alternative but to appoint the local magnate to the office. This is a fact which should well be borne in mind when the examination of the actual process of the acquisition of an ecclesiastical bailiary is undertaken in the next chapter.

The process whereby the United States became a nation was a long and difficult one. It began with the first settlers who came to the continent in search of a better life. They found a land of vast resources and a people who were eager to learn from them. The process of settlement was a slow one, but it was a process that was driven by the desire for a better life. The settlers who came to the continent were not just looking for a place to live, they were looking for a place where they could build a better life for themselves and their families. They found a land of vast resources and a people who were eager to learn from them. The process of settlement was a slow one, but it was a process that was driven by the desire for a better life.

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CHAPTER SEVEN

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THE ACQUISITION OF THE BAILIARY

The process whereby the bailie secured and retained possession of an ecclesiastical bailiary was long, complicated and often dependent upon a multiplicity of different factors, many of which affected also the choice of bailie, and were examined in the previous chapter. The four principal ones were those of geography, allied to political power, the effect of the kin grouping and what might be termed the "state of the kingdom".

In general the strength and relative independence of any abbey or ecclesiastical institution was dependent in the later middle ages upon its geographical situation. If an abbey lay in an area of strong kin affiliation, or where, for political or military reasons, certain noble families had been permitted or indeed encouraged by the central administration to acquire a degree of power greater than their peers elsewhere in the country, as in, for example, the border marches, the possibility of the institutions of the Church retaining their independence of these great families was consequently less. The families of greatest independence and power tended to acquire possession of and to monopolise at an earlier date, the office of bailie and, indeed, often the complete institution. The date at which the bailiary of any ecclesiastical institution became hereditary is a useful guide both to the relative strength and independence of the institution in question, and to the power of the family in whom the bailiary was made hereditary. As will become clear from an examination of the table illustrating the development of hereditary tenure over the bailiaries,¹ those situated in areas

1. See Appendix 3, table 18.

where certain families tended to predominate became hereditary at an earlier date than those situated elsewhere in Scotland.

The family of Home succeeded in establishing its power in the south-west of the kingdom, and came to hold the bailiaries of the monasteries of Coldingham and Dryburgh and the nunnery of Eccles. The families of Scott and Ker in the middle marches held the bailiaries of the other three principal border abbeys, those of Melrose, Kelso and Jedburgh. In Dumfriesshire it was the family of Maxwell which was predominant, holding the bailiaries of the abbeys of Holywood, Sweetheart, Tongland and Dundrennan, while in the south-west the family of Kennedy held the bailiaries of Whithorn Priory, the bishopric of Galloway and the abbeys of Glenluce and Crossraguel.¹ An abbey situated in regions where families of great power were established possessed only the remotest possibility of retaining for long the independence of its bailiary. It is no surprise, therefore, to find that these abbeys tended to fall under the sway of a single family earlier than was the case in the rest of Scotland.

At the other extreme, as has been seen, were the institutions situated in the Central Lowlands within easy distance of the royal seat in Edinburgh. Owing to their good fortune in geographical location, these were able to appeal more readily to the effective implementation of royal justice and for this reason the history of the bailiaries of these more fortunate abbeys tended to differ from the more predictable fate of those examined above. The lack of any overwhelmingly predominant family in close proximity to their estates enabled them to pursue a more flexible policy with regard to their

1. See Appendix 1.

bailiaries. The abbeys of Dunfermline, Holyrood, Culross, Inchcolm and Pittenweem, and the regality of St. Andrews generally employed men of lower social status, with the consequence that their powers were inferior to those of their southern counterparts. These abbeys were in a position to change bailies from one generation to the next, as was most clearly the case with those of Dunfermline and Holyrood, thereby preventing the development of any hereditary claim upon the bailiary in one family.¹ It was largely due to the good fortune of their geographical position that these institutions owed much of their strength, independence and manoeuvrability.

In between these two extremes lay the abbeys, which, though they were situated at some distance from the centres of royal power, did not, however, lie in the marcher regions. They tended to be less vulnerable with regard to the retention of the freedom of choice of their bailies than those on the Borders, but more so than those in Fife and the Lothians. Into this category fell the abbeys of Paisley, Kilwinning, Inchmahome, Inchaffray, Coupar-Angus and Arbroath. All of these abbeys eventually fell under the sway of one family, but at a slightly later date than in the south.²

As has already been noted the influence of the family or kin grouping was always a potent factor in Scottish history,³ though determining its precise effects has presented major problems. The historian is hampered by the fact that familial connections may exist, though the bailie and cleric do not bear the same surname. However, what is clear is that the possession of a benefice, or

1. See Appendix 1 and above, pp. 126-8.

2. See Appendices 1 and 3.

3. Above, pp. 100-2.

indeed the lack of possession of it by a particular family at any given moment, could be of prime importance with regard to the process of acquisition. If the office of bailie or one of those related to it were granted hereditarily to a member of one's own family, the fact that the benefice on the death of the present incumbent would probably pass into the hands of another family would be of less significance, as the bailiary would remain with the original family.

In 1465 the bailiary of the priory of Coldinghame was granted in fee and heritage to Alexander Home of that Ilk¹ at a time when the prior of the monastery was John Home,² the second son of the man to whom the grant was made.³ In 1531 Robert Erskine, commendator of the priory of Inchmahome, and the convent of that place, appointed James Erskine, brother of John, Lord Erskine, to the bailiary of the abbey.⁴ And about the year 1549 the bailiary of the bishopric of Aberdeen was granted hereditarily to George, earl of Huntly, by Bishop William Gordon,⁵ the brother of the earl.⁶ What is of importance is that the possession of a benefice could clinch the selection of the family with whom the bailiary was ultimately to rest. As has already been seen, often possession of the bailiary was held by a family before the benefice was secured but the possession of the latter could accelerate the process of acquisition. It could also, however, lead to strife and battle.

The possession of a benefice by a member of a rival family could hinder the process of acquisition. An outstanding example of

1. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

2. M. Dilworth, 'Coldingham Priory and the Reformation', Innes Review, XXIII (1972), p. 115.

3. Peerage, IV, p. 450.

4. S.R.O., Mar and Kellie: GD124/1/962.

5. Aberdeen, II, pp. 306-10.

6. Peerage, IV, p. 533.

this is provided by the battle for control over the abbey of Kilwinning by the families of Eglinton and Hamilton. On the death of Hugh, earl of Eglinton, in 1545 the abbot of the monastery, Mr. Alexander Hamilton¹ (1527-47), appears to have attempted to prevent the inheritance of the hereditary office of bailie by the next earl. By 26 September, Hugh, by now the second earl, had still not been infeft in the office due to the refusal of the abbot so to do.² Montgomery's attorney consequently protested for remeid of law before the lords of council.³ Presumably this was successful for on 9 August 1547 the abbot and convent issued a precept for his infeftment⁴ and an instrument of sasine followed thereupon.⁵ In the process of securing the possession of a bailiary by any family the place of the kin-grouping could be decisive.

In the above instance the family rivalry was connected with the actual possession of the benefice by one family and the bailiary by another, but such rivalry could take the form of a more direct and blatant struggle for power. The most outstanding example of this was the rivalry between the families of Ogilvy and Lindsay over the bailiary of Arbroath Abbey. In 1445 this came to a head with the bloody battle fought outside the gates of the abbey. The victors were for a time the family of Lindsay, but the ultimate possessors of the bailiary were to be the Ogilvies. This was an instance where in all probability the process of acquisition, as far as the Ogilvies were concerned, was held up for some years. They had held

1. G. Hamilton, A History of the House of Hamilton, p. 521.

2. S.R.O., Eglinton: GD3/1/732.

3. S.R.O., Eglinton: GD3/1/732.

4. S.R.O., Eglinton: GD3/1/733.

5. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 19.

the office of bailie from the beginning of the fifteenth century but were not to gain secure possession until the sixteenth.¹ Such family rivalries, therefore, could and did affect the actual process of acquisition and must be recognised as having so done.

The fourth principal factor affecting the process of acquisition was that of the "state of the kingdom". Instability in society due to war, revolt and general lawlessness undermined the security of the demoralised Church, as was earlier noted. The greater the instability the greater was the degree of protection which the Church required and the more did the Church become dependent upon the only viable source of that protection, the nobility of the kingdom. As time passed the Church was less able to resist the advances of that class.²

Finally, a whole host of unsuspected and often unrelated factors might affect the process of acquisition of a bailiary. The factors examined above were those which could be generalised about on a national scale, but factors of purely local significance might also affect the process. The heir to the office might be underage. He might lack the ability of his father or predecessor. He might be incapable of government. He might be a spendthrift or totally uninterested in the tasks of administration. In the middle ages, and indeed to-day, the history of institution was often determined by the character of the actors. Often such facets are now impossible to determine, but an awareness of their existence is necessary for an adequate appreciation of the problems at issue.

Some attempt has therefore been made to outline the external factors which might affect the process of acquisition of an

1. Below, pp. 244-256.

2. Above, pp. 43-51.

ecclesiastical bailiary by any family. As will become clear the history of each bailiary, so far as it may be pieced together, was different. A perusal of Appendix 1 will give some impression of the forces at play. With these caveats in mind something should now be said of the actual process as it may be pieced together from the surviving evidence.

The process was often long and complicated but in the remainder of this chapter the following aspects will be examined. First of all the question of the independence of the Church in the choice of appointment and upon whom that right of choice fell, must be considered. Thereafter an examination of the more general facets of the process, of the basic common denominators observable throughout the kingdom, will be undertaken. The different stages leading up to the securing of the bailiary in hereditary feu-ferme will be considered with an examination of the different type of tenures employed. Finally the acquisition of two bailiaries, those of the monasteries of Coupar-Angus and Arbroath, by the family of Ogilvy of Airlie will be examined in as much detail as the sources permit. These are examples, as typical of the process as any may be said to be. In this way it is hoped that some general impression of the process in operation may be given.

Basic to the process of acquisition of the office was the element of consent necessary on the part of the Church. In general it is to be suspected that complicated negotiations lay behind the eventual grant of an office of bailie and the terms of the contract were most likely the result of a compromise, a process of give and take on both sides. Contrary to what one historian has said the grant of the office was indeed a contract in which obligations lay

with both parties.¹ This process would account for the variations

1. "Only in a few cases is there an element of contract in a grant of bailiary though some appointments may have been made in return for sums of money or past services". (M.H.B. Sanderson, *The Social and Economic Implications of the feuing of Ecclesiastical Property in Scotland in the late fifteenth and sixteenth centuries*, I, p. 52.) Given the definition of a contract under Scots law this is patently false. A contract it is stated, is "the voluntary agreement of two or more persons, by which something is to be given or performed upon one part, for a valuable consideration, either present or future, on the other part". (Bell's Dictionary and Digest of the Law of Scotland, ed. G. Watson, p. 238.) In almost every grant of the office of bailie some reward was given for services rendered and often this was specifically stated to be the case.

The money paid to the bailie of the priory of Coldingham in January 1465/66 was explicitly "pro feodo dicti officii exercendo". (R.M.S., II, 859.) That paid by the nunnery of Elcho in 1470 to its bailies was "for their faithful service". (Oliphant, pp. 16-17, no.28.) The bailies of the abbey of Coupar-Angus received payment in 1522 "pro eorum stipendio et feodo in dicto officio". (Coupar Chrs., II, no. CLXVI.) In 1524 the bailies of the abbey of Melrose were awarded certain lands "pro feodo et laboribus suis". (Buccleuch, II, pp. 142-3, no. 131.) From January 1537/38 the money paid to the bailie of Bishop and Muckartshire was "for his zeirly fee and office foresaid". (S.R.O., Morton: GD150/959.) The bailies of the abbey of Inchcolm in 1538 were specifically awarded a "bailze fee". (Inchcolm, no. LVIII.) In 1539 the lands of Lochartur were granted to the bailies of Sweetheart "in thare balze fee". (Carlaverock, II, pp. 468-9, no. 88.) The payment made in 1544 to the bailies of the abbey of Kilwinning was "pro eorum laboribus in dicto balliatus officio", (R.M.S., III, 3030.) while the rewards paid by the abbey of Paisley to its bailies in 1545 were avowedly "pro sua mercede et stipendio dicti officii". (Paisley, app. II.)

Other documents show that the element of contract was already well established insofar as they assume that the grant of the bailie fee was an accepted and known practice. In January 1468/69 the bailie of the abbey of Inchaffray was to be given "ane compitable fee zeirly tharfor sic lik as our predecessouris has geffin till other bailzeis of befor". (Oliphant, pp. 13-14, no. 23.) In 1502 the bailie at the abbey of Dunfermline was to be paid a "stipendium seu salarium aut mercedem consuetum seu consueta". (Register of Supplications, vol. 1150, fo. 139 verso.) The bailie of Galloway was in 1516 to receive all the fees profits and emoluments belonging to the office of bailie. (S.R.O., Ailsa: GD25/1/239.) The papal confirmation of the grant of the bailiary of the abbey of Melrose in 1525 acknowledged that the bailie should be endowed "cum omnibus et singulis illius honoribus, oneribus, salariis et emolumentis consuetis". (Buccleuch, II, pp. 143-4, no. 132.) Finally the abbey of Melrose in 1535 granted the king as their bailie "all feis and dewiteis aucht and wont thereof and for lik as ony uthir our baillies of our said landis had for using of the said office in ony times bigane". (S.R.O., Register House Charters: RH6/1107).

in the terms of the many grants which have come to light in the period under consideration, with regard to the length of tenure, the payment of fees, the duties incumbent upon the bailie and the powers conferred upon him.¹ As has been seen above pressures, other than the purely ecclesiastical, certainly played their part in these negotiations which by their very nature have remained clouded in secrecy. One of the principal difficulties is to determine the extent to which the choice of bailie was a free one on the part of the Church and by whom this choice was made. It was and is self-evidently more difficult to sway and manipulate a group of people rather than a single person. It should, therefore, be determined to what extent the choice of the bailie, insofar as it was a free choice, was made by the abbot or bishop and how far it was influenced by either the monastic or cathedral chapter.

It has never been clear just how far the choice of the bailie was a joint action and how far it was that of the abbot, for as one historian has succinctly phrased the problem, "the legal personification of the convent by the prior in its dealings with the outside world has the inevitable effect of concealing the extent to which monastic policy was a communal enterprise and makes it easy to assume that the will of the superior was the source and origin of all monastic decisions".² However, with regard to the great northern English priory of Durham the same historian has no doubts

(Footnote continued from previous page)

From the above therefore it is clear that in general the relationship between the bailie and the ecclesiastical institution for which he acted was contractual. The bailie was employed to perform certain specified functions and in return for their performance was paid a sum of money or goods, which was quite obviously regarded as a fee, salary or stipend.

1. See Appendix 4.

2. R.B. Dobson, Durham Priory 1400-1450, p. 81.

where the choice of steward lay. "The choice of the steward", he says "was the prior's alone and in no sense was he legally or constitutionally responsible to the chapter as a whole, which on only one occasion is known to have criticised his methods".¹ The situation in Scotland, however, was far from as clear-cut as this and it is to be suspected that the above position has been somewhat over-simplified.

In Scotland the body which granted the office of bailie varied from institution to institution, depending upon its legal constitution, but it would be true to say that in almost every extant document containing a grant of the office of bailie of a monastic house, the action was specifically stated to be of the abbot and convent of the place. This, however, was true of almost every action undertaken by a monastic community, as the charters and grants of any monastic chartulary clearly show.² Yet the grant of the office of bailie to a powerful layman was a much more important transaction than the run of the mill business which the community would normally effect and it is to be suspected that the diplomatic form of these grants might have carried more weight than was the case in lesser transactions.

The core of the problem centres round the monastic chapter and its role. In theory it was the dominant body in the government of a monastic house. "The canonical religious chapter", it has been said, "may be defined as a collective moral person composed of the religious who have the right of suffrage according to the proper constitutional law and constituted as an independent authority

1. R.B. Dobson, Durham Priory 1400-1450, p. 126.

2. See for example Arbroath, Dunfermline, Kelso, Melrose, etc.

in the government of the institute".¹ Meetings of the chapter should have been held daily and the superior proposed any business for which he needed the advice or consent of the brethren.

"Canonical writers make the general statement that chapters ordinarily had greater authority than individual superiors".² In theory then the appointment of the monastic bailie should have been a corporate action on the part of the abbot and chapter. One means to determine the extent to which this was the case is to examine the language of the surviving grants of the office.

The formulary grant was by its very nature the archetype of the process and it is, therefore, fortunate that a number of formulary grants of the office of bailie and its related offices do survive. There are extant in the register of the monastery of Kelso "a small portion of formulae or styles which admit of no date",³ and among these is a letter of bailiary dating probably from the second half of the fifteenth century. In this instance a certain "A. de D. dominum de C." was created bailie of the lands of the abbey within the 'sheriffdom of Teviotdale'⁴ by the joint action of the abbot, William, and the convent of the place. The transaction was sealed with the common seal of the abbey chapter.⁵ Another such grant, in this instance, of the office of justiciar, is extant for the abbey of Dunfermline. This document as befits a formulary style is undated, but is probably of sixteenth century provenance.⁶ The

1. The New Catholic Encyclopaedia, III, p. 456.

2. Ibid.

3. Kelso, p. XVIII.

4. The sheriffdom of Teviotdale was alternatively known as Roxburghshire.

5. Kelso, no. 549.

6. Dunfermline Court Bk., p. 4, note 1.

TABLE 14 (Cont.)

House/Estate	Date	Consent	Reference
Inchcolm	1538	Abbot/Convent	<u>Inchcolm</u> , no. LVIII
Coupar-Angus	1539	Abbot/Convent	<u>Coupar Chrs.</u> , II, no. CLXXIII
Kilwinning	1540	Abbot/Convent	S.R.O., Eglinton: GD3/1/723
Newbattle (sea-gate)	1541	Abbot/Convent	<u>R.M.S.</u> , III, 2362
Inchaffray	1544	Abbot/Convent	<u>Oliphant</u> , pp. 67-70, no. 119
Kilwinning	1544	Abbot/Convent	S.R.O., Fraser Inventory, Bundle 80, no. 5
Paisley	1545	Abbot/Convent	<u>Paisley</u> , App. II
Coupar-Angus	1522	Abbot alone	<u>Coupar Chrs.</u> , II, no. CLXVI
Torry	1527	Abbot alone	<u>Arbroath</u> , II, no. 646
Glenluce	1543	Abbot alone	S.R.O., Ailsa: GD25/1/451

TABLE 14

Table illustrating the breadth of consent required for the election of
the bailie in conventual houses

House/Estate	Date	Consent	Reference
Kelso	1435x64	Abbot/Convent	<u>Kelso</u> , no. 549
Lesmahagow	1456	Abbot/Convent	<u>H.M.C. Rept.</u> , XI, pt. 6 (Hamilton), pp. 213-4, no. 134
Coldingham	1465	Abbot/Convent	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 176, no. 298
Elcho	1470	Prioress/Convent	<u>Oliphant</u> , pp. 16-17, no. 28
Kelso	1473	Abbot/Convent	Register of Supplications, vol. 691, fo. 293 recto
Arbroath	1485	Abbot/Convent	'Registrum Nigrum' of Arbroath Abbey, Adv. MS. 34.4.3, fo. 112 recto
Dunfermline	1502	Abbot/Convent	Register of Supplications, vol. 1150, fo. 139 verso
Barry	1506	Abbot/Convent	<u>Panmure</u> , pp. 269-70
Barry	1511	Abbot/Convent	<u>Panmure</u> , pp. 279
Barry	1511	Abbot/Convent	<u>Panmure</u> , p. 280
Dunfermline	early 16th century	Abbot/Convent	<u>Dunfermline</u> , no. 588
Melrose	1519	Abbot/Convent	<u>Buccleuch</u> , II, pp. 133-4, no. 126
Coupar-Angus	1522	Abbot/Convent	<u>Coupar Chrs.</u> , II, no. CLXVI
Holywood	1523	Abbot/Convent	<u>Coupar Chrs.</u> , II, no. CLXVII
Inchmahome	1531	Abbot/Convent	S.R.O., Mar and Kellie: GD124/1/962
Lesmahagow	1532	Abbot/Convent	<u>R.M.S.</u> , III, 1885
Melrose	1535	Abbot/Convent	S.R.O., Register House Charters: RH6/1107

The noble lords "NN" were created justiciars of the whole of the regality lying within the sheriffdom of Fife by the abbot "N" and the convent of the abbey. Again the common seal of the chapter was affixed.¹ In both these surviving examples of anonymous styles of grant the transaction was avowedly effected by the abbot, but with the consent of the monastic chapter and under the capitular seal.

As may be seen from the table opposite this was the case in almost every grant of the office of bailie of any abbey or conventual priory where there were no extraordinary circumstances, such as a vacancy in the abbacy. The practice clearly did not vary within the time-span covered by this thesis. It may, therefore, be concluded that unless special circumstances should arise the grant of the office of bailie of any independent monastic house in Scotland in theory at least, was made by the joint action of both the abbot and the convent of the abbey or conventual priory. The decision was a corporate action and was expressed as such both in Latin and in the vernacular. The grant of the bailiary of the abbey of Coupar-Angus to James, Lord Ogilvy of Airlie and to James, his eldest son, in 1522 was avowedly made by "nos (the abbot, William) unanimi consensu et assensu in capitulo nostro ad infra scripta peragenda capitulariter congregati",² while in the vernacular, the appointment of Henry Stewart of Rosyth to the bailiary of the abbey of Inchcolm in 1538 was avowedly made by "Richard...abbot of Sanct Colme Inche and the convent of the sammyne cheptourly convenit and gaderit heirto".³

1. Dunfermline, no. 588.

2. Coupar Chrs., II, no. CLXVI.

3. Inchcolm, no. LVIII; S.R.O., Register House Charters: RH6/1171.

But in certain instances such a benefice might not be held at any given moment by an abbot or conventual prior and some attention should be paid to methods of appointment in such cases. By the latter half of the period under examination many of the Scottish abbeys were no longer held by a titular in the true sense of the word, be he resident or not, but were governed by a commendator,¹ whose right (ius) in the office was somewhat less than an abbot or conventual prior.² The position of the commendator, however, with regard to the appointment of the bailie appears to have differed none from that of the abbot. In fact only two instances of the appointment of bailies by commendators have come to light, and in each the process was the same. In 1531 Robert Erskine, commendator of the priory of Inchmahome, created with the assent of the chapter, James Erskine, bailie of all the lands of the priory for nineteen years.³ Then in 1544 Laurence, Lord Oliphant, was created bailie of the lands of the abbey of Inchaffray by Gavin Dunbar, commendator of the abbey, and the convent of the place.⁴ Once again it may be stated that in theory at least, the appointment of a bailie to an abbey held in *commendam* required the consent of both commendator and convent.

In four instances the appointment to the bailiary of an abbey was made without the participation of the abbot. In each case this was probably due to a vacancy in the abbacy. In 1484 David Scott of Branxholm and his son, Robert Scott, were created bailies of the

1. See for example the abbeys of Arbroath and Dunfermline. (*Arbroath*, II, pp. XII-XIII; *Dunfermline*, p. XVI).

2. *Dictionnaire de droit canonique*, III, p. 1069; Z.B. Van Espen, *Commentarius in Canones Juris Veteris ac Novi et in Ius Novissimum*, I, p. 321, caps. 1-6.

3. S.R.O., Mar and Kellie: GD124/1/962.

4. *Oliphant*, pp. 67-70, no. 119.

abbey lands of Melrose by Laurence Tweedie, the sub-prior and sixteen named monks, who presumably constituted the chapter. The Scotts were to be bailies for only five years, and when the abbey would again possess an "ourmane"¹ who would have the power to create bailies, they were promised a letter of bailiary for five years under the seal of the superior.² The whole tenor of this document emphasises the corporate nature of the action. In 1514 Alexander Crail, the sub-prior of the abbey of Arbroath, and the convent created James, Lord Ogilvy, bailie, justiciar and chamberlain of the abbey for five years.³ In 1522 letters under the quarter seal were directed to the sub-prior and convent of the priory of Coldingham, exhorting them to receive George, Lord Home, as their heritable bailie.⁴ Finally in 1524 Walter Scott of Branhholm and his heirs were appointed bailies of the lands of the abbey of Melrose by Andrew Durie, postulate of the monastery, and the convent of the place. Again this was done under the common seal of the abbey.⁵ Save in the latter instance where Durie was to become full abbot of the monastery, the appointment was in general effected by the prior with the active participation of the convent, if the case of Melrose in 1484 is to be taken as normal.

However, the mere fact that the consent of the convent was said to have been necessary in the surviving documents is no guarantee that this was in fact the case. Often this may have been simply diplomatic form far from conveying the true source of the decision.

1. "Supreme ruler", (Etymological Dictionary of the Scottish Language, III, p. 409), presumably the abbot in this case.

2. Buccleuch, II, pp. 82-3, no. 84.

3. S.R.O., Airlie: GD16/25/70.

4. H.M.C. Rept., XII, pt. 8 (Home), p. 179, no. 305.

5. Buccleuch, II, pp. 142-3, no. 131.

Other information may aid in clarification of this issue. In a number of instances the active participation of the members of the convent was illustrated by the appending of their signatures to the documents conferring the office. This may be taken to confirm that the transaction was at least effected in the chapter, that many of the chapter were present and that presumably some discontent, if felt, could have been voiced there.

In 1465 when the bailiary of the priory of Coldingham was conferred hereditarily upon Alexander Home of that Ilk the grant was signed by the prior and ten monks of the chapter.¹ This was similarly the case in 1478 when the bailiary of Kelso abbey was re-granted hereditarily to Walter Ker of Cessford and his heirs. In this instance the abbot and seventeen monks appended their signatures.² The rather unusual document of 1484 granting the bailiary of the abbey of Melrose to David Scott of Branhholm and his son, Robert, referred to above, was signed by the sub-prior and ten monks.³ In January 1499/1500 James Dunbar of Cumnock was appointed to the bailiary of the priory of Pluscarden and in this instance the document was signed by Andrew, bishop of Moray, Robert, the prior of the monastery, the dean and six canons of the cathedral chapter of Moray and five others who were probably members of the convent of the priory.⁴ The two grants of the bailiary of the barony of Barry made by the abbey of Balmerino in 1511 were signed in both instances by the abbot and eight monks.⁵

1. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

2. Ibid., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.

3. Buccleuch, II, pp. 82-3, no. 84.

4. Pluscardyn, p. 236.

5. Panmure, pp. 279, 280.

The grant of the bailiary of the abbey of Melrose to Walter Scott of Buccleuch in 1519 was signed by the abbot and no less than twenty-six monks.¹ The grant of the bailiary of the abbey of Holywood in 1522 to Robert, Lord Maxwell, was signed by the abbot and eight monks.² The grant of the bailiary of the abbey of Inchcolm in 1538 to Henry Stewart of Rosyth for nineteen years was signed by the abbot and eight monks.³ In 1539 the grant of the bailiary of the abbey of Sweetheart for nineteen years to Robert, Master of Maxwell, was signed by the abbot and twelve monks.⁴ The hereditary grant of the bailiary of the abbey of Coupar-Angus, made in the same year to James Ogilvy of Airlie and his heirs, was signed by the abbot, Robert, and Andrew Buttar of Balmerino, sub-prior and commissioner of the abbot of Melrose, the abbot Donald of Coupar and twenty-two monks of the convent.⁵ Finally, the grant of the bailiary of the abbey of Inchaffray in fee and heritage to Laurence, Lord Oliphant in 1544 was signed by the commendator and twelve monks.⁶ Such documents were not always signed but in these instances at least a greater degree of participation in the appointment to the office of bailie may be inferred than might be drawn simply from the text of the documents.

Naturally, the mere signing of his name cannot be taken to prove conclusively that the monk in question either approved of the choice, or had taken an active part in the selection of the bailie, for as has been seen, many other influences, bribery and physical

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1. Buccleuch, II, pp. 142-3, no. 131.
 2. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170.
 3. Inchcolm, no. LVIII; S.R.O., Register House Charters: RH6/1171.
 4. Carlaverock, II, pp. 468-9, no. 88.
 5. Coupar Chrs., II, no. CLXXIII.
 6. Oliphant, pp. 67-70, no. 119.

coercion, kin and self-interest could and often would play an important role. But it does show at least that the appointment of the bailie was considered to be of sufficient importance to require or to benefit from the open approval of the chapter, which could be shown by their signatures to the document and it does likewise show that, while the decision may ultimately have rested in practice with the abbot, the action sanctioning the appointment was in general a capitular action, and that many, if not all, of the chapter were physically present at the formal transaction of the business.

There is, however, extant one instance of even more direct capitular participation in the transaction. On 29 September 1539 twenty-one monks of the abbey of Coupar-Angus were gathered together as the chapter of the monastery in the chapter-house and were called upon by the abbot, Donald Campbell, to confirm and give their consent to the appointment of James, Lord Ogilvy of Airlie and his heirs, to the office of bailie of the monastery and to the grant of the lands of Clintlaw and Auchindorie to the same family in feu-ferme. The abbot, speaking in the vernacular, informed the assembled monks that the offices and lands had been granted to Ogilvy "for the utility and profit" of the abbey, and he called upon them that "gyff thair be ony of zou breder that thinkis this be nocht for the utilite and profet of our said place or that the said evidentis sall nocht be deliverit to my lord ogylwy (they should) schaw now (their) myndis and murmur nocht efterwart that this is done be ony senister way". He then called upon them to voice their support for the transaction which they did "una voce et unanimi consensu".¹ Despite the above verbiage it is impossible to determine

1. Coupar Chrs., II, no. CLXXIX.

precisely to what extent the action was a free one. James Ogilvy of Airlie was present in person with James Ogilvy of Cookston who acted as one of the witnesses¹ and doubtless a whole retinue of Ogilvy followers was in the vicinity. It would have required a brave and single-minded monk to voice objection to the business and by this particular stage in the process, the acquisition of the consent of the chapter was, in all probability, purely formal. But the point of interest was that it was nonetheless felt necessary to secure the assent of the whole chapter and by the acquisition of a notarial instrument to show openly that the assent had been gained. This would appear to indicate that as late as 1539 the role of the monastic chapter was not purely passive, and that while in general silence surrounds the actions of the chapter, in the case of the more important business of the monastery, such as the appointment of the bailie, the phrase "with the consent and assent of the convent" may convey an element of truth.

The monastic houses of Scotland, as was general, may be divided into two categories, the conventual and the non-conventual. The conventual priory had as its superior a prior, but was nonetheless an independent house, lacking only the elevation to the nominal dignity of an abbey. With minor exceptions the conventual prior possessed the same powers in his house as did the abbot in his.² For the purposes of this study the Scottish conventual priories, such as Inchmahome and Coldingham, though the latter was such only after the middle of the fifteenth century,³ may be treated as if they

1. Coupar Chrs., II, no. CLXXIX.

2. The New Catholic Encyclopaedia, XI, p. 788.

3. In the mid-fifteenth century the priory of Coldingham freed itself of the jurisdiction of its mother-house, the priory of Durham, and became in effect a conventual priory. See R.B. Dobson, 'The Last English Monks on Scottish Soil', S.H.R., XLVI (1967), pp. 1-25.

were abbeys. The appointment of bailies by these houses was by prior and convent without recourse to any mother-house.¹

However, in general a priory was a dependent body, which did owe allegiance to some mother-house and which lacked the rights of independent action which pertained to an abbey. The obedientiary or simple prior was the ruler of a dependent priory. He was appointed by the superior of the mother-house and could be removed at the will of that superior.² In the case of the dependent priory the consent of the mother-house was required for the appointment of any bailie to its lands. Evidence is extant with regard to the appointment to the bailiaries of four of Scotland's non-conventual priories.

The first of these was a rather unusual case insofar as the dependency of this house upon its mother-house declined and ended completely by the third quarter of the fifteenth century. This was the priory of Coldingham, a daughter house of the great northern English priory of Durham. However in the 1440s the Scottish priory was still obviously dependent. On 1 May 1442 John, prior of Durham, with the consent of the prior of the cell of Coldingham, created David Home of Wedderburn bailie of all the lands of Coldingham for a period of twelve years.³ Only a few days later the same Prior John without any reference to the prior of Coldingham, on 20 May 1442, appointed Alexander Home to the bailiary.⁴ These documents indicate fairly clearly that full power of appointment lay with the prior of the mother-house and while the contingencies of local conditions were taken into account, (i.e. the necessity of appointing a member

1. For Coldingham, H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298; R.M.S., II, 859. For Inchmahome, S.R.O., Mar and Kellie: GD124/1/962.

2. The New Catholic Encyclopaedia, XI, p. 788.

3. Coldingham Chrs., no. DLXIV.

4. Ibid., DLXVII.

of the family of Home to the bailiary) the right of appointment lay ultimately with the superior of the mother-house.

In January 1499/1500, James Dunbar of Cumnock was appointed to the bailiary of the priory of Pluscarden for life. Pluscarden was at this time a dependency of the Benedictine monastery of Dunfermline,¹ and it is, therefore, all the more strange that the appointment was made by Robert, prior of Pluscarden and the convent of the place, but also with the consent of "Andro be the grace of God bischope of Moray our ordinar, dene and cheptour of ye samyn".² The probable reason for this must be sought in an earlier century. The bishop of Moray, it appears, claimed the right of visitation, correction, institution and privation of the monastery, and in the thirteenth century the monks and prior of Pluscarden had understood and allowed the claim.³ The approval of the bishop of Moray to this appointment almost certainly stems from this earlier agreement.

The neighbouring priory of Urquhart, however, was from March 1453/4 united to the priory of Pluscarden under the dependency of the abbey of Dunfermline,⁴ and in this case at least in 1535 James Betoun as perpetual commendator of the latter monastery, not the prior of Pluscarden or Urquhart, appointed four local lairds of the north-east to be bailies and justiciars of the lordship of Urquhart.⁵ In this instance there is no recorded participation by the bishop of Moray.

1. On 12 March 1453/4 Pope Nicholas V consented to the seperation of Pluscarden Priory from Val de Choux and made it a dependency of the abbey of Dunfermline. (C.P.L., X, pp. 253-4).

2. Pluscardyn, pp. 235-6.

3. Ibid., pp. 82-3, 216-7.

4. C.P.L., X, 253-4.

5. Dunfermline, no. 526.

Finally on 28 February 1542 John Gray, prior of the Augustinian priory of Strathfillan, which was dependent upon the abbey of Inchaffray, with the consent of Gavin Dunbar, perpetual commendator of Inchaffray, and the convent of that place (*superiorum suorum jus patronatus dicti prioratus tanquam celle dicti monasterii habentium*)¹ granted the bailiary of the barony of Auchtertyre (*Wouchtertiry*) to James Campbell of Lawers and his heirs and assignees.²

It would appear, therefore, that the prior and convent of a dependent monastic house possessed insufficient power to confer under their own auspices the office of bailie of their own lands. In the case of a non-conventual priory the process of gaining the consent to an appointment to the office of bailie could be and was more complicated than in the case of an abbey or conventual priory. The degree of consent required was greater than in the case of the latter bodies.

One other class of monastic house with which it might be suspected a greater degree of consent than was normal was required for the grant of the office of bailie was that of the Cistercian order with its somewhat hierarchical organisation. In fact the information with regard to the Scottish Cistercian houses is by no means clear. Certainly, in the bulk of instances where the grant of the bailiary of a Cistercian house is extant the normal abbatial and conventual consent seems to have been sufficient. In both 1506 and 1511 the grants of the bailiary of the barony of Barry were made by the abbot and convent alone.³ In 1519 the bailiary of the abbey of

1. Easson, *Monastic Houses*, p. 83 fails to cite any dependency of the priory upon the abbey of Inchaffray.

2. *R.M.S.*, III, 2993.

3. *Panmure*, pp. 269-70, 280.

Melrose was granted for nineteen years to Walter Scott of Buccleuch, once again by the abbot and convent alone,¹ and in 1539 the bailiary of the abbey of Sweetheart was set for nineteen years to Robert, Master of Maxwell, by the abbot and convent of the place.² In none of these instances was the grant hereditary and it may well be that for that reason that the consent of other Cistercian officials was not required. When however, in 1539 the abbot, Donald, and the convent of the abbey of Coupar-Angus granted the bailiary of that place in fee and heritage to James, Lord Ogilvy, and his heirs this was done with the consent of Robert, abbot of Balmerino, and Andrew Buttar, sub-prior of Balmerino and commissioner of the abbot of Melrose.³ The abbey of Melrose was the mother-house of both Balmerino and Coupar-Angus.⁴

One piece of evidence, it must be conceded, would appear to contradict the above conclusion. In 1524 when the bailiary of the abbey of Melrose was granted in fee and heritage to Walter Scott of Braxholm and his heirs, this was done by Andrew Durie, the postulate of Melrose, and the convent of the abbey alone, apparently without the consent of any higher body.⁵ Certainly no mention was made in the document of the consent of the mother-house of Rievaulx⁶ having been sought. Doubtless this was due to the fact that Rievaulx was an English abbey and its jurisdiction was no longer recognised in Scotland. Some consultation with the head-house of the order at Citeaux might have been expected but there is no evidence of this.

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1. Buccleuch, II, pp. 133-4, no. 126.
 2. Carlaverock, II, pp. 468-9, no. 88.
 3. Coupar Chrs., II, no. CLXXIII.
 4. Easson, Religious Houses, pp. 62-3.
 5. Buccleuch, II, pp. 142-3, no. 131.
 6. Easson, Religious Houses, p. 65.

Possibly any confirmation from that source has been lost. The evidence overall is slender but it would appear reasonable to suppose that in general, when the bailiary of a Scottish Cistercian house, whose mother-house was also Scottish, was granted in fee and heritage, the consent of that mother-house was sought.

Thus far with regard to the Scottish monastic house the emphasis has been upon the breadth of consent which was apparently necessary to sanction an appointment to the bailiary of such a house. In certain instances, however, and admittedly these were few, the abbot does seem to have appointed to the bailiaries of certain lands of the monasteries on his own authority. On 19 March 1476 George, abbot of Arbroath, appointed John Hamilton of Bradhirst to the offices of bailie, justiciar and chamberlain of the regality of "Athkarmoure" for a period of five years. No mention was made of the consent of the convent having been sought.¹ The same was true of the appointment of two Aberdeen burgesses to the bailiary of the barony of Torry by the abbot of Arbroath in 1527 for nineteen years.² In general it would seem that such appointments were made to the lesser bailiaries of detached baronies, though two purely abbatial appointments to principal bailiaries are extant. In 1523 the bailiary of the abbey of Coupar was granted to James, Lord Ogilvy, and his son for five years by "us Wilzem...abbat of cowpar"³ and in 1543 the bailiary of the abbey of Glenluce was granted for five years to Gilbert, earl of Cassilis, by the abbot. The document states quite clearly that the grant was made by the abbot alone and "subscrivit with (his) hand, (his) sele of office (was) affixit".

1. Arbroath, II, no. 198.

2. Ibid., no. 646.

3. Coupar Chrs., II, no. CLXVII.

There are no other signatures to the document and it is the personal seal of the abbot, not the common seal of the chapter which was appended. The abbot had obviously omitted even the formality of gaining the consent of the chapter to the transaction.¹ Possibly the omission of capitular consent in these two instances was due to the fact that the grants were to last for only five years, though as has been seen, other such grants required the consent of both abbot and convent. Possibly in the latter instance it was due to the excessive influence of the Kennedy family. In any case these were remarkable grants.

Though the appointment to an ecclesiastical bailiary was essentially an ecclesiastical concern, on occasion the consent of certain powerful laymen to a particular appointment seems to have been sought. The promotion on 20 May 1442 of Alexander Home of that Ilk to the bailiary of the priory of Coldingham was sanctioned by James, king of Scots, who at this date was still a minor, by James, bishop of St. Andrews, and by the earls of Angus, Mar and Crawford.² The appointment of Laurence, Lord Oliphant, to the bailiary of the abbey of Inchaffray in January 1468/9 by the abbot George was to be effective only if Oliphant secured the assent of Lord Boyd and his son, the earl of Arran.³ In 1522 the sub-prior and convent of the priory of Coldingham were called upon in the name of the king to receive George, Lord Home, as their heritable bailie.⁴ Obviously the Church had to take into account the feelings of the most powerful men in the realm before appointing to a bailiary, for a choice,

1. S.R.O., Ailsa: GD25/1/451.

2. Coldingham Chrs., no. DLXVII.

3. Inchaffray, pp. 159-60, appendix VI.

4. H.M.C. Rept., XII, pt. 8 (Home), p. 179, no. 305.

unpopular with the powers that be, could spell much trouble for an ecclesiastical institution.

The other major regular institutions for men in late mediaeval Scotland were the military orders, represented by the order of the ~~Templars and~~ Hospitallers, and the various orders of friars. As no grant of the office of bailie is extant for either, conclusions with regard to the methods of appointment must remain more conjectural. Given the overtly secularised state of the Templars by the fifteenth century and the fact that the temple-bailie was often referred to simply as the bailie of the preceptor of Torphichen, without reference to any chapter of the place,¹ it is to be suspected that the choice of bailie generally lay with that man alone.² In the case of the orders of friars the choice of bailie appears to have followed the model of their regular brothers, the monks. In 1490 James Cockburn of Newbigging was said to be bailie, not only to the minister and provincial warden, but also to the convent of the Friars Minor of Haddington,³ while Robert Eviot in Mireton was in 1546 avowedly the bailie of the friars and convent of the Friars Preacher of Perth.⁴

Moving from the sphere of the male to the female religious evidence concerning the method of appointment to the Scottish nunneries is slight but what does exist would appear to indicate that the process was similar to that employed by their male counter-parts. On 5 December 1470 Margaret, prioress of Elcho, and the convent of that place appointed as the bailie of their lands for

1. See above p. 91, note no. 1.

2. Prot. Bk. Ros, no. 1305; Prot. Bk. Young, nos. 47, 868; Laing Chrs., no. 388, M S., 2180 Box 55.

3. S.R.O., Miscellaneous: GD1/39/V/2.

4. Perth Blackfriars, p. 211, app. 16.

the duration of his life Laurence, Lord Oliphant.¹ Though the nunnery was Cistercian, no mention was made of any superior body's consent being sought to the appointment and the same was the case with regard to the bailiary of the Cistercian nunnery of Eccles which was, at some unspecified date, conferred upon Alexander, third Lord Home.²

However, the information available for the nunnery of Haddington might be taken to point in a different direction. Three references to the office of bailie in the years 1530-3 name the official as bailie of the prioress of Haddington alone and make no mention of the convent of the monastery, as might have been expected.³ Such evidence is tenuous to say the least but might lead to the supposition that the choice of bailie lay much more with the prioress alone, than was the case elsewhere. The terminology employed, however, may have been due simply to the carelessness of the notary public. In general the surviving evidence would seem to point to the fact that the nunneries followed the monasteries in the appointment of their bailies.

Considering now the realm of the secular clergy the appointment of a bailie to the principal bailiary of either an archbishopric or a bishopric appears to have been the action of both bishop and cathedral chapter. In 1516 Gilbert, earl of Cassilis, was created bailie of all the lands of the bishopric of Galloway by David, bishop of Galloway, with the consent of the chapter of Whithorn.⁴

1. Oliphant, pp. 16-17, no. 28.

2. H.M.C. Rept., XII, pt. 8 (Home), p. 128, no. 130.

3. S.R.O., Protocol Book of Alexander Symson, B30/1/2, fos. 14 verso, 23 verso, 48 recto.

4. S.R.O., Ailsa: GD25/1/239.

In 1545 James, earl of Arran, and his heirs were created bailies and justices of all the lands of the regality of Glasgow for nineteen years, by Gavin Dunbar, archbishop of Glasgow, with the consent of the chapter of Glasgow¹ and finally, about the year 1549, William, bishop of Aberdeen, "with expres consent and assent of our dene and chanonis and cheptour to the effect onder specifeit cheptourlie convenit" appointed to the bailiary of the bishopric, George, earl of Huntly.²

However, on 30 October 1459 reference was made to Robert Graham of Old Montrose (Aldmonros) "ballivus domini episcopi Sancti Andree".³ In this instance and with regard to the detached baronies in the episcopal regalities differences in procedure appeared. In 1471 Roger of Cairns, vicar of Dumfries, was appointed to the bailiary of "Colinhath Rig" by the bishop of Glasgow alone.⁴ A similar practice seems to have been general at St. Andrews. At some time in the 1520s Patrick Cheyne of Esslemont was created bailie of the lordship of Ellon by James, archbishop of St. Andrews.⁵ In March 1524/5 James, archbishop of St. Andrews, issued letters of bailiary to Robert Douglas of Lochleven creating him bailie of Bishop- and Muckartshires.⁶ The same was to be observed in the detached barony of the diocese of Dunkeld, that of Aberlady, which by 1515 had Robert Lauder of the Bass as the bailie of "umquhile George, bischop of Dunkeld".⁷ In general it would seem that the presentation of a bailie to a detached barony of a diocese was made

1. H.M.C. Rept., XI, pt. 6 (Hamilton), p. 221, no. 161.

2. Aberdeen, II, pp. 306-10.

3. S.R.O., Dalhousie: GD45/27/80.

4. S.R.O., Broughton and Cally: GD10/5.

5. S.R.O., Errol: GD175/340.

6. S.R.O., Morton: GD150/959.

7. Acts of Council (Public Affairs), p. 29.

by the bishop alone without consultation with his chapter.

This, however, was not always the case and two instances are extant in the regality of St. Andrews where the consent of both archbishop and chapter to an appointment to such a bailiary was sought and gained. The appointment of John, Lord Borthwick, for nineteen years as bailie of the barony of Stow about the year 1543 was made by cardinal-archbishop David Betoun, but with the express consent of "*capituli nostri ecclesie nostre metropolitane et primatialis (Sancti Andree) ad hoc in capitulo eiusdem capitulariter congregati*".¹ The grant of the bailiary of the lordship of Tynninghame in fee and heritage was similarly made by Archbishop James Betoun with the consent of his chapter in 1535, as was the grant of the same lands in 1542.²

It is difficult to determine why these differences in procedure should have existed. One possible solution to the problem might be that the relationship of the bishop to his chapter was not directly analagous to that of abbot and convent. The bishop was not the head of the cathedral chapter, though he might be a member of it, for the head was the dean. The dean and chapter formed a separate legal corporation holding lands and revenues in their own right³ and the bishop may have done the same. In the cases where the appointment to a bailiary was made by the bishop alone these lands were possibly held by the bishop alone, though such a conclusion has of course anomalies. Some light may be shed on the problem by an examination of the form of the grants of episcopal charters. In general the bishop seems to have acted on his own, but on occasion

1. St. Andrews Formulare, II, no. 466.

2. Haddington, II, pp. 254-5, no. 351; p. 258, no. 357.

3. J. Dowden, The Mediaeval Church in Scotland, pp. 81-3.

with the consent of the chapter. No reason for this or pattern in the procedure is discernable. In one episcopal chartulary two charters of feu-ferme, granted by the bishop alone, are followed by a charter of feu-ferme, granted by both bishop and chapter.¹ It may well have been that the extent of the element of consent necessary for episcopal actions was largely random.

Though the cathedral chapters appear to have aided in the selection, and appointment of the bailies of their dioceses, as has been indicated previously,² they too possessed bailies in their own right and presumably their selection was independent of the bishop. In 1487 John Kennedy of "Knockrewaulk" was the bailie of Patrick (Vaus) who was prior of Whithorn,³ and the convent of the place.⁴ In 1494 John, Lord Sempill, was avowedly bailie of the dean and chapter of the church of Glasgow (ballivus dictorum decani et capituli).⁵ Five years later in 1499 William Mudie was said to be the bailie-principal of the prior and convent of the monastery of St. Andrews.⁶ Considering the similarity of phraseology with regard to the monastic houses it is reasonable to suppose that the choice of bailie was made by both dean and chapter.

Thus far what has been able to be gleaned from the sources of the legal aspects of the appointment of the bailie has been examined but as has already been indicated, what survives to-day is merely the diplomatic result of complicated and doubtless dubious

1. Aberdeen, I, p. 421, 422.

2. Above, pp. 87-8.

3. G. Donaldson, 'The Bishops and Priors of Whithorn', Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society, 3rd Series, XXVII (1950), p. 146.

4. S.R.O., Ailsa: GD25/1/147.

5. Glasgow, II, no. 467.

6. S.R.O., St. Andrews Charters: B65/22/156.

negotiations which, because of their very nature, are surrounded with a veil of secrecy. On only two occasions is direct access to these machinations possible for the historian who by, as it were, reading between the lines may gain some appreciation of the forces at play. Both instances date from the mid-fifteenth century, and since the general impression is of more rapid and ethical moral decline within the clergy and the Church, it might well be suspected that these were not isolated examples and in all probability practices such as these would become more common as standards of integrity among the clergy fell.

The earlier incident was in connection with the bailiary of the abbey of Newbattle in January 1452/3. It would appear that Alexander Crawford, a nobleman of the diocese of Glasgow, supposedly without the knowledge of a certain Thomas, monk of Newbattle, had approached Alexander Livingston, a councillor of the king of Scots, asking him to labour to secure the abbacy for the said Thomas. The latter now also approached Livingstone, seeking his assistance and promised to grant him the bailiary of the abbey.¹ This was quite obviously a simoniacal action and Thomas, now abbot, was attempting to secure papal dispensation for it. It seems, therefore, that in this instance the office of bailie was used as a lure to gain the support of a powerful figure in securing for Thomas the abbacy of Newbattle. The office of bailie was merely a pawn in a wider game. Moreover, it must be noted that to all intents and purposes, possession of the office by Livingstone was guaranteed by Thomas even before he became abbot. This might well indicate that the position of abbot was dominant in the choice of bailie.

1. C.P.L., X, pp. 570-1.

The second incident some sixteen years later was not so clear-cut, but the form of the agreement is sufficiently unusual to warrant note. In January 1468/9 George, who called himself abbot of Inchaffray, but to judge by the remainder of the document can only have been postulate, came to an agreement with Laurence, Lord Oliphant, whereby he obliged himself that within twenty days of his admission to the spirituality of the abbey by the ordinary and to the temporality by the king, he would create Lord Oliphant "full bailze" of all the lands, rents and possessions belonging to the abbey.¹ The reason for this obligation was not given but some dubiety as to the legality of the transaction must be voiced. As with the last example, the bailiary was promised before the cleric actually had possession of the abbey, and in each instance the abbot assumed that he had sufficient power in his own right to guarantee future appointment to the office.

In the above cases there would appear to have been machinations between the clergy and certain laymen, but on occasion this lay interference in the appointment to the office could go yet further to the extent of almost excluding ecclesiastical participation.

The earliest example of such manoeuvring by laymen without regard to ecclesiastical interests over an ecclesiastical bailiary was an agreement made between Alexander Home of that Ilk and David Home of Wedderburn in 1425. By this agreement David Home would attempt to "purches" the bailiary of the priory of Coldingham from the prior of Durham or of Coldingham by any means possible. When the office was secured Alexander would receive one half of the

1. Inchaffray, pp. 159-60, app. VI.

profits of the office. At a later date, when Alexander deemed the time to be opportune, David would "purches the office of the hale balzery...to the sayde Alexander" for his life, and Alexander, as bailie obliged himself to grant David one half of the profits of the office.¹ This agreement is illustrative of the way in which a bailiary was regarded as a mere commodity.

It is interesting that no reference was made to the position of the Church in this agreement. In fact the terms of the agreement were eventually fulfilled some seventeen years later. Not only did laymen plan to manipulate the Church, they succeeded in so doing.

Another interesting case is that of the bailiary of the abbey of Culross at the end of the fifteenth century. Patrick Blackadder of Tulliallan had been granted a nineteen year tack of the bailiary of Culross but on 10 August 1495 he resigned the bailiary into the hands of the abbot and convent in favour of Archibald, earl of Argyll. Blackadder promised to enter into a bond of manrent with the earl, who in return, declared that the "said Patrik and his ayris (should) be deputis and no utheris...for the said erle...for all the terme and tyme of nyntene yeris witht power to substitut ane deput under him". The earl further promised to defend Blackadder and his heirs in their heritage and all their actions and it was stipulated that if the earl or his heirs should resign the bailiary within nineteen years, Blackadder would still retain possession of the office of bailie-depute.² By this transaction Blackadder was patently the loser, forfeiting the office of principal bailie for that of bailie-depute and retaining all the duties and burdens of

1. H.M.C. Rept., Milne-Home p. 19, no. 3.

2. S.R.O., Cardross: GD15/153.

the office. The result, in essence, was a purely secular action in which ecclesiastical participation was theoretical rather than actual. Admittedly the office was resigned into the hands of the abbot and convent and it was they who regranted it to Argyll but the impression is given that they had little choice but to recognise a fait accompli. Yet again the office of bailie appears to have become a mere commodity over which laymen might freely dispute.

Of relevance also was the right of appointment to the ecclesiastical immunity of Tain. This right seems at one time to have been shared by the Church and the earl of Ross,¹ though by 1512 the king in his position as earl of Ross (*tanquam comite Rossie*) appointed to the bailiary alone.²

More arresting was the grant of the bailiary of the ecclesiastical barony of Tynninghame in 1538, made without reference to any ecclesiastical personage or institution. On 9 July 1535 the lands and bailiary of the lordship of Tynninghame were granted by James Betoun, archbishop of St. Andrews, to James Stewart, eldest natural son of James V.³ The office remained in the hands of the royal family for the next three years until on 18 and 20 February 1537/8 when James Stewart leased to Robert Lauder of the Bass the lands of Tynninghame for nine years, together with the bailiary of the barony for the same period. All this was to be held by Robert and his heirs of James Stewart and his heirs, with the sole stipulation that the archbishop of St. Andrews and his successors should have paid to them the service due from the lands.⁴ This latter stipulation was the only reference

1. By act of parliament in 1503 it was declared "anentis the girtht, that my Lord of Ross and the kirkmen provide tharfor as thay think to be doune". (*A.P.S.*, II, p. 248).

2. *R.M.S.*, II, 3763.

3. *Haddington*, II, pp. 254-5, no. 351.

4. *Ibid.*, pp. 256-7, no. 355.

to any ecclesiastical involvement at all in the barony. The grant of the office of bailie, or what was in effect the sub-letting of it, was apparently made without reference to the archbishopric.

One area which was more recognisably the domain of the layman was the right to appoint one or more bailies-depute. This faculty was included in almost every grant of the office of bailie, though it could on occasion be circumscribed.

Often the right of appointment was unrestricted. In 1470 Laurence, Lord Oliphant, as bailie of the nunnery of Elcho was permitted to appoint deutes under him.¹ In 1485 James, Lord Ogilvy, was allowed a similar faculty by the abbot of Arbroath.² In January, 1499/1500 James Dunbar of Cumnock as bailie of the monastery of Pluscarden was empowered to appoint and dismiss bailies-depute "als oft as he thinkis expedient",³ as was Gilbert, earl of Cassilis, as bailie of Galloway in 1516.⁴ In the grant of the bailiary of Ellon to Patrick Cheyne of Esslemont in 1522 he was permitted to create deutes,⁵ while in 1531 at Inchmahome James Erskine as bailie was empowered to appoint bailies-depute "at his plesour".⁶ At Inchcolm in 1538 the bailie was allowed to create deutes⁷ as was he at Coupar-Angus in 1539⁸ and at Auchtertyre (Wouchtertiry) in 1542.⁹ Finally, Laurence, Lord Oliphant, as bailie of the monastery of Inchaffray was empowered in 1544 to appoint and remove his deutes as he wished.¹⁰ In all these

1. Oliphant, pp. 16-17, no. 28.

2. Arbroath, II, no. 281.

3. Pluscardyn, p. 235.

4. S.R.O., Ailsa: GD25/1/239.

5. S.R.O., Errol: GD175/340.

6. S.R.O., Mar and Kellie: GD124/1/962.

7. Inchcolm, no. LVIII.

8. Coupar Chrs., II, no. CLXXIII.

9. R.M.S., III, 2993; S.R.O., R.M.S., C2/29/202, fo. 76 verso-77 verso.

10. Oliphant, pp. 67-70, no. 119.

instances, therefore, the Church renounced control over the appointment of deputes.

However, on occasion the right was restricted and the appointment of the depute was sanctioned only with the consent of the abbot. When Hugh Campbell of Loudoun was appointed to the bailiary of the estates of Kylesmuir and Barmuir in 1521 he promised that he would "maik na deput nor deputis onder ws in the said office of balzerye bot witht the awiss and consent of the said abbot and convent or ther successoris".¹ In 1535, when James V was created bailie of the abbey of Melrose, he was empowered to appoint deputes "providing all wais that the saidis deputis be ane of our awin houshald men or tenentis of the said abbey as sall pleiss us and our successors for the tyme...and na uther to be fortifyt be his grace in ministracioun of iustice for the wele of the said place".² In the appointment of Gilbert, earl of Cassilis, to the bailiary of the abbey of Glenluce in 1543 it was stipulated by the abbot that deputes were to be made "with our (the abbot's) avyse and contentatioun alanerly",³ while at the abbey of Paisley in 1545 the right of appointment of the deputes was specifically reserved to the abbey as the community saw fit.⁴

In addition to the power of creating deputes to perform the duties of the office in the absence of the bailie, the bailie-principal was generally empowered also to appoint the officers of the court, the serjeants, mairs, dempstars and clerks. In all the grants of the earlier paragraph this faculty was conceded. But on occasion this was all that was conceded to the bailie. In 1506 Thomas Maule

1. Melrose, II, no. 598.

2. S.R.O., Register House Charters: RH6/1107.

3. S.R.O., Ailsa: GD25/1/451.

4. Paisley, app. II.

of Panmure as the bailie of the barony of Barry was permitted to create officers for the administration of justice.¹ In 1524 Walter Scott of Branxholm was simply permitted to create officers, clerks, and serjeants of court,² while in January 1537/8 Douglas of Lochleven as bailie of the estates of Bishop and Muckartshires was permitted only to appoint the officials of the court.³ It is possible that it was assumed that the phrase "officers of the court" included the office of bailie-depute but this is unlikely when it is realised that in the other documents the office of depute was specified. Certainly the power of creation of these officials of the court was delegated and fell out of the control of the Church but this power carried considerably less weight than did that of the appointment of the superior official.

Finally in a number of instances the faculty of appointment was not mentioned at all and presumably all power was retained in the Church. This was the case in the appointment of Roger of Cairns to the bailiary of "Colinhath Rig" in 1471,⁴ of David Scott of Branxholm to the bailiary of the abbey of Melrose in 1484⁵ and in the sixteenth century grant of the office of justiciar, contained in the register of Dunfermline.⁶

The above was the theory of the operation, but in fact only one instance of such an appointment has actually come to light. On 20 June 1544 James Grant of Freuchie, the bailie of Robert, abbot of Kinloss, and of the convent of that place created Alexander Cumming of Altyre bailie-depute of the abbey for the duration of the lives

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1. Panmure, pp. 269-70.
 2. Buccleuch, II, pp. 142-3, no. 131.
 3. S.R.O., Morton: GD150/959.
 4. S.R.O., Broughton and Cally: GD10/5.
 5. Buccleuch, II, pp. 82-3, no. 84.
 6. Dunfermline, no. 588.

of both James and Alexander. Though the appointment was made in the name of James Grant nevertheless the acquiescence of the convent in his choice was sought and was forthcoming. The document, moreover, was hung with the seal of Grant.¹ The participation of the clergy in this transaction was once again minimal. In the case, therefore, of the offices of bailie-depute and often with the court officials the right of appointment was resigned by the Church into the hands of laymen. In these instances, unless otherwise stipulated, the participation of the clergy in the appointment to the office might be minimal.

Thus it may be seen that often the diplomatic form of the documents granting the office of bailie hid much behind them. Negotiations and compromises, deals and debate all went into the final agreement. Sometimes the appointment was made by the abbot alone. More generally the consent of the convent appears to have been necessary. Often a wide range of consent was required to sanction certain grants and on occasion the consent of laymen to an appointment was necessary. Indeed, as has been seen on occasion, the participation of the clergy in the appointment may have been minimal. It is impossible to determine precisely to what extent the choice of bailie was a free one but in the preceding pages an attempt has been made to examine and understand the actual process of securing the consent of the ecclesiastical authorities.

Up to this point some effort has been made to understand the preliminaries which led up to the grant of the office of bailie, but now an examination of the actual process of acquisition of an

1. Grant, III, p. 90, no. 95.

office of bailie by a family must be undertaken. The ultimate history of the office of bailie, as was the case with most offices in the later middle ages, was that it became hereditary in a particular family. The process had, therefore, something of an inexorable flavour to it. However, though the end result was generally the same, this should not blind the historian to the realisation that to the figures of the period the ultimate result was by no means a foregone conclusion. In some cases the bailiary of a particular house might at the beginning of our period lie in the hands of one family and at the end in the hands of another. The process does admit of generalisation, but as the survey in Appendix I shows, the history of no two bailiaries was the same. The rate and progress of acquisition was affected by many different factors in different areas.

Essential to the process of acquisition was the length of tenure granted of a particular bailiary.¹ This may be classified under the following headings:

(1) A grant of the office might be made to endure entirely at the will of the abbot, bishop, or ecclesiastical benefice holder. Often where the length of tenure was not specified in a grant it is to be suspected that the office was held under this condition. This was the least stable form of grant.

(2) The grant might be made to last for the life of the granter, the grantee or both, or whoever should resign his office or die first.

(3) The grant might be made for a specified number of years

1. Survey tables of grants may be seen in Appendix 3.

to an individual to be held by him alone.

(4) The grant might be made for a specified number of years but be hereditary within that period, passing to heirs or even on occasion to assignees.

(5) Finally, after a period of time which varied greatly and might have been dependent upon a multiplicity of different factors, the office might be made hereditary in a particular family. There was in no way any fixed chronological progression to this process and in the history of any given bailiary the type of grant made did not pass inexorably from classification one to five.¹ Different forms of tenure were employed in different bailiaries. What may be said with a reasonable degree of veracity is that the office was generally granted first for a specific number of years and later, only after some form of proprietorial right had developed through the passage of time, was it granted hereditarily.

The most unstable form of tenure was by its very nature that made to last at the will of the abbot or bishop. A number of grants of this category have come to light, though admittedly they were not over-common. A grant such as this would appear to indicate that the initiative in the appointment lay with the Church and that the bailie was in a subservient position.

An early example of this practice was the grant of the bailiary of the barony of Barry by James, abbot of Balmerino, to Thomas Maule

1. As late as 1554 the bailiary of the barony of Barry was granted to the Maules of Panmure for only three years (Panmure, II, p. 309) and in the post-Reformation period, in 1574 the bailiary of the abbey of Kinloss was still not hereditary in any single family. In that year the abbot, Walter, and the convent of the abbey granted the bailiary of the abbey to Robert of Balnamoyne and John, his son and heir for nineteen years. (S.R.O., Castle Gordon: GD44/9/1/1).

of Panmure in 1505. This was specifically stated to last at the will of the abbot (*pro voluntate nostra duraturis*).¹ In 1522 James, archbishop of St. Andrews, constituted Patrick Cheyne of Esslemont his bailie and steward of the lordship of Ellon in the regality of St. Andrews in a grant which was "to lest induring our will and quhill thai be revokit".² That these terms were indeed enforced was illustrated by a case heard before the Lords of Council on 11 March 1513/4. Alexander Stewart, commendator of the monastery of Dunfermline, had appointed the Lord of Morton to the bailiary of the abbey for one year and then further at the abbot's will. Stewart died with his father, James IV, on the field of Flodden³ and so it would be supposed the grant fell void. Morton, however, still claimed to be bailie of the monastery and the case was heard before the Lords of Council. The Lords declared decisively that Morton's letter of bailiary was of no avail "because the said maist reverend fader is decessit and tharthrow the effect of the said lettir of balzery sesis in the self".⁴ This form of tenure was unstable and the courts of law held this to be the case.

These then are the surviving examples of a grant at the will of the benefice-holder but a number of letters, conferring the office of bailie, failed to specify the period of time during which the office was to be retained by the recipient. The formulary letter of justiciary, dating in all probability from the sixteenth century,⁵ made no mention of the length of tenure.⁶ Possibly this was due to the fact that the letter was a mere form and it was

1. Panmure, II, pp. 269-70.

2. S.R.O., Errol: GD175/340.

3. A.H. Dunbar, Scottish Kings 1005-1625, p. 220.

4. Acts of Council (Public Affairs), p. 13.

5. Dunfermline Court Bk., p. 4, note 1.

6. Dunfermline, no. 588.

assumed that in an actual grant of the office the length of the tenure would be included but there is no indication of this in the text. It may well have been that it was assumed that the office would be held at the will of the abbot. In 1471 Andrew, bishop of Glasgow, appointed to the bailiary of "Colinhath Rig" Roger of Cairns, vicar of that place, but no mention was made of the length of tenure.¹ In the commission of bailiary of the lands of Barry to Thomas Maule of Panmure on 10 February 1511 by Robert, abbot of Balmerino, again no specific time-scale was mentioned,² though only a few months later on 19 June 1511 the office was granted to Maule for nineteen years.³ Finally, on 10 March 1524/5 a letter of bailiary was issued by James, archbishop of St. Andrews, appointing Robert Douglas of Lochleven his bailie of Bishop- and Muckartshires with no specification of length of tenures.⁴ It is so atypical of the legalistically minded late mediaeval churchman to neglect to specify in a legal document so important an element as the length of tenure, that it may well be that it was assumed by contemporaries that such a grant would last only at the will of the grantor.

The second type of grant, and one which was relatively common was the grant of the office for the duration of the lifetime of the grantee, or in feudal terms, in life-rent. In 1408 the English bishop, Langley, had in an injunction, forbidden the granting of offices for life but as a historian has said with regard to the English scene in the fifteenth century, stewards were replaced only on their death, or at their own wish.⁵ The life tenure in Scotland

1. S.R.O., Broughton and Cally: GD10/5.

2. Panmure, II, p. 279.

3. Ibid., II, p. 280.

4. S.R.O., Morton: GD150/957.

5. R.B. Dobson: Durham Priory 1400-1450, p. 126.

was common but, as will be seen in Scotland at least, it was far from being the only form of tenure.

The earliest example of this type of grant dates from 10 October 1456, when Richard, abbot of Kelso, and the convent appointed James, Lord Hamilton, as their bailie of the barony of Lesmahagow "for the whole time of life of the said lord".¹ Some years later two grants of different bailiaries were made to Laurence, Lord Oliphant, in life-rent. On 25 January 1468/9 Oliphant was appointed² the bailiary of the monastery of Inchaffray "for al the dais of his lyff",² while in the next year on 5 December 1470 Margaret, prioress of Elcho, appointed the same man to the bailiary of that place "pro toto tempore vite sue".³ In January 1499/1500 James Dunbar of Durris was appointed to the bailiary of the priory of Pluscarden "for all ye termis and dais of his lyffe".⁴ On 14 February 1502 a grant of the bailiary of the abbey of Holywood was made to Robert, Lord Maxwell, his son and heir, Herbert Maxwell, his brother, Robert, and to the longest liver of them in life-rent.⁵ Later came the most extraordinary grant of all when the bailiary of the abbey of Melrose was in 1535 conferred upon James, king of Scots, by the abbot and convent "for all the dais of his grace lif".⁶ On 7 March 1544 there was what might be termed a "mixed" grant of the bailiary of the abbey of Inchaffray to Laurence, Lord Oliphant, in life-rent, and on his demise in fee and heritage to his heirs.⁷ The grant was in effect hereditary, though the first stipulation would doubtless mean that Laurence would retain full claim to the

1. H.M.C. Rept., XI, pt. 6 (Hamilton), p. 213, no. 134.

2. Oliphant, pp. 13-14, no. 23.

3. Ibid., pp. 16-17, no. 28.

4. Pluscardyn, pp. 235-6.

5. Carlaverock, I, p. 165.

6. S.R.O., Register House Charters: RH6/1107.

7. Oliphant, pp. 67-70, no. 119.

office during his life-time. Finally, in a slightly different category, was the creation on 20 June 1544 of Alexander Cumming of Altyre as bailie-depute of James Grant of Freuchie, bailie of the abbey of Kinloss.¹ Though this grant was made by a layman to a layman, the basic pattern was the same. There was, however, an added complication. Cumming was to hold the office for the duration of his own and Grant's lifetimes, though presumably, if Grant predeceased Cumming the office would fall void.

This form of grant was fairly common in the period under consideration and was evident throughout the time span, though in its simplest form it was most popular in the late fifteenth century. As far as the independence of the monastery was concerned such a grant could be either to its advantage or to its disadvantage depending upon the longevity of the recipient. James, Lord Hamilton, first appeared on record in 1426² and apparently died in 1488.³ He was, therefore, in his thirties when he received the bailiary of Lesmahagow in life-rent. Laurence, first Lord Oliphant, was underage on the death of his father in March 1444/5⁴ and he died before 8 April 1500.⁵ He cannot, therefore, have been older than his mid-forties at the most when he received his bailiaries in life-rent and to judge by the year of his death, was probably considerably younger. In these two instances, therefore, bailiaries were granted to men of comparative youth, though by mediaeval standards, possibly they were considered

1. Grant, III, p. 90, no. 95.

2. Peerage, IV, p. 349.

3. Ibid., p. 353.

4. Ibid., VI, p. 540.

5. Ibid., p. 541.

as being of advanced years. In both cases the men held the bailiaries for a considerable period after the grant. Possibly this was a calculated risk on the part of both Church and bailie. Certainly Oliphant seems to have favoured this form of tenure, possibly because he had great faith in his own longevity!

The third class of tenure was that made to an individual for a specified number of years, to remain in that person alone. This was a common form of tenure, to be found throughout the period under consideration. In 1502 Patrick Hepburn, earl of Bothwell, was created bailie of Dunfermline Abbey for nineteen years.¹ In 1505 John Tyrie, provost of Methven, was created bailie of that place for five years.² In 1511 Thomas Maule of Panmure was appointed bailie of Barry for nineteen years.³ In 1520 Patrick Cheyne of Esslemont was appointed bailie of the lordship of Ellon in the regality of St. Andrews.⁴ In March 1524/5 Robert Douglas of Lochleven was created sole bailie of the lands of Bishop- and Muckartshires by James, archbishop of St. Andrews.⁵ In 1531 James, brother of John, Lord Erskine, was created bailie of the lands of Inchmahome for the space of nineteen years,⁶ and finally in January 1537/8 the grant of the bailiary of Bishop- and Muckartshires was renewed to Douglas of Lochleven for three years.⁷

In each of the above instances the grant of the office of bailie was made to one man and to one man alone. If he died before the tenure had expired, the bailiary would fall void and would not

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1. Register of Supplications, vol. 1150, fo. 139 verso.
 2. Methven, p. 34.
 3. Panmure, II, p. 280.
 4. S.R.O., Errol: GD175/340.
 5. S.R.O., Morton: GD150/957.
 6. S.R.O., Mar and Kellie: GD124/1/962.
 7. S.R.O., Morton: GD150/959.

pass by right to his heirs. When Patrick Hepburn, earl of Bothwell, died in 1508¹ with only six of the nineteen years of his tenure spent, the office passed from his family into the hands of James Douglas, Master of Morton.² In consequence, the degree of security of tenure on the part of the bailie with this variety of grant was considerably less than that enjoyed by those who held the office under the next form of tenure to be considered. That is not to say that the bailiary might not still pass within the same family. The Maules of Panmure, for example, still held the bailiary of Barry in 1558 when it was granted to Robert Maule for life, and then to his heirs for a period of "three nineteen years".³ The Cheynes of Esslemont still held the bailiary of Ellon in 1559 when the office was again granted to the family by the abbot of Kinloss,⁴ while the Erskines still retained the bailiary of Inchmahome in 1562.⁵ What this type of tenure did mean to the bailie was that succession was by no means automatic. On an early death heirs had no absolute right to succeed to the bailiary for the remainder of the term. That right was inherent only in the next variety of tenure to be considered.

The fourth type of grant was that which was made for a specific number of years, but was hereditary within that period. In 1484 the sub-prior and convent of the abbey of Melrose created David Scott of Branhholm and his son, Robert Scott, bailies of the lands of the abbey for five years.⁶ In 1485 James Ogilvy of Airlie and his son and heir were created bailies of the abbey of Arbroath for

1. Peerage, II, p. 152.

2. The Exchequer Rolls of Scotland, ed. G. Burnet and A.J.G. Mackay, XIII, p. 242.

3. Panmure, II, p. 309.

4. Kinloss, pp. 149-50.

5. S.R.O., Mar and Kellie: GD124/1/971.

6. Buccleuch, II, pp. 82-3, no. 84.

nineteen years.¹ In 1521 the bailiary of the detached baronies of Kylesmuir and Barmuir was conferred upon Hugh Campbell of Loudoun and his heirs for the space of nineteen years.² In 1522 the bailiary of the abbey of Coupar-Angus was granted to James Ogilvy of Airlie and his son, James, for nineteen years.³ In 1538 Henry Stewart of Rosyth and both his heirs and assignees, an extension of the normal practice,⁴ were created bailies of the lands of the abbey of Inchcolm for nineteen years.⁵ In 1540 Hugh, earl of Eglinton, and his heirs were created bailies of the abbey of Kilwinning for six years.⁶ In 1543 Gilbert, earl of Cassilis, and his heirs were created bailies of the abbey of Glenluce for five years⁷ and finally on 3 June 1544 Hugh, earl of Eglinton, and Hugh Montgomery, his grandson and heir apparent, and either of them, conjointly or severally, were created bailies of the abbey of Kilwinning for nineteen years.⁸

The security which this form of tenure afforded to the bailie was somewhat greater than that of the previous form. This might be termed a "semi-hereditary" form of grant. If the incumbent died within the specified period of tenure the office would, nevertheless, pass to his heirs for the remainder of the period and in the case of the abbey of Inchcolm could even pass to assignees of the bailie. This is clearly shown by a grant of the bailiary of Coldingham Priory to Alexander Home in 1442. Home was to hold the office for sixty years "and gif it happinis the sayd Alexander to discese within the

1. Arbroath, II, no. 281.

2. Melrose, II, no. 598.

3. Coupar Chrs., II, no. CLXVI.

4. Below, p.241.

5. Inchcolm, no. LVIII.

6. S.R.O., Eglinton: GD3/1/723.

7. S.R.O., Ailsa: GD25/1/451.

8. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and the barony of Kilwinning, Bundle 80, no. 2.

said termes we will that Alexander, the son and Ayre of the said schir Alexander, occupy and have the sayd office of balyere to the usche of the said sixty yheris".¹ A grant of this variety almost guaranteed that a bailiary would be retained by a particular family for the full term of the tenure.

With regard to the length of tenure in the two varieties of grant which specified the number of years for which the office was to be held, of the sixteen such grants which have come to light, ten of these were for nineteen years, one was for eleven, one was for six, four were for five and one was for three years.² The nineteen year tack, therefore, followed by that for five years, were the most popular. This follows closely the pattern for land tenures on certain ecclesiastical estates which a historian recently plotted. It would appear from the table which she has produced that by the sixteenth century the nineteen year tack was the most popular after that of life-rent, followed by the five year lease.³ It is no surprise to find that the same ecclesiastics who were determining the length of land tacks should employ a similar rationale with regard to the length of tenure of the office of bailie.

Falling within the general category of the last classification of a grant to a principal and his heirs for a specified period were two grants which possessed slight but significant differences. In 1535 James Stewart, son of James V, leased the lands of the barony of Tynninghame within the regality of St. Andrews, together with the

1. Coldingham Chrs., no. DLXVIII.

2. See Appendix 3, table 17.

3. M.H.B. Sanderson, 'Kirkmen and their Tenants in the Era of the Reformation', Records of the Scottish Church History Society, XVIII (1974), p. 34.

bailiary of these lands to Robert Lauder of the Bass. The office was to be held by Lauder and his heirs for a period of nine years.¹ The unusual element in this grant was that it was made almost without reference to the Church. The form of the document and its terms were similar to the ecclesiastical ones already examined but the principals in the transaction were both laymen.

Another slight variation in the theme was the grant of the office of bailie of the collegiate church of Methven in November 1499 to George Moncrieff of Tippermalloch, his son, Robert, and sir John Tyrie, provost of Methven, for five years.² In this instance the grant of the office was to men of different families, who were created joint bailies, but if one died within the specified period, doubtless the office would have been retained by the others for the remainder of the term.

The process finally culminated in the lengthiest tenure of all, the hereditary grant. The date at which a bailiary might finally fall heritably to a particular family varied greatly, being dependent upon a number of local and national factors. Those in the border regions, where conditions tended to be unstable, in general became hereditary in one family earlier than those elsewhere in the country. The spate of hereditary grants came in the regency in the 1540s³ doubtless under the double pressure of English and Lutheran attack, a fact which emphasises the extent to which the basic function of the office of bailie had changed to become one of physical defence rather than one of legal and estate management. The process, whereby

1. Haddington, II, pp. 256-7, no. 355.

2. Methven, p. 34.

3. See Appendix 3, table 18.

the office was secured hereditarily was complicated but owing to the proportion of surviving evidence may be considered in some detail.

As is ever the case the information regarding the state of each bailiary varies considerably and while it is often possible to determine when a bailiary became hereditary in a particular family, it is not always possible to follow closely the process whereby this was effected. However, some notion of the means may be gained by an examination of the eight or so instances where the process at various stages has come to light.

Leaving aside the actual negotiations and pre-grant diplomacy, the first stage in the final act of the process which has been sketched above, was the grant by the ecclesiastical institutions of the bailiary in fee and heritage. On 2 August 1465 Prior John and the convent of Coldingham conferred the bailiary of the priory on Alexander Home and his heirs in fee and heritage.¹ At some point in 1472 or early 1473, to judge by the period of time required for a supplication to reach Rome, he considered and returned to Scotland, the bailiary of the abbey of Kelso was granted in perpetual feu-ferme to Walter Ker of Cessford and his heirs.² In 1523 the bailiary of the abbey of Holywood was granted to Robert, Lord Maxwell, in perpetual emphyteosis.³ On 17 November 1524 Andrew Durie, postulate of Melrose, and the convent of that place granted the bailiary of the lands of that abbey to Walter Scott of Branxholm and his heirs in fee and heritage.⁴ On 25 September 1539 the bailiary of the abbey of Coupar-Angus was granted to James, Lord Ogilvy of Airlie, and his

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1. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.
 2. Register of Supplications, vol. 691, fo. 293 recto.
 3. St. Andrews Formulare, I, no. 77.
 4. Buccleuch, II, pp. 142-3, no. 131.

heirs male in perpetual feu-ferme.¹ On 7 March 1544 Gavin Dunbar, commendator of Inchaffray, and the convent of that place granted to Laurence, son and apparent heir of Laurence, Lord Oliphant, the bailiary of all the lands of the abbey in fee and heritage.² On 28 October 1544 Hugh, earl of Eglinton, and his heirs were created hereditary bailies of the abbey of Kilwinning,³ and on 16 April 1545 Robert, Master of Sempill, and his heirs were created bailies of the lands of the monastery of Paisley.⁴

The choice of this particular form of tenure to effect the hereditary grant is of interest but in all probability the reasons for its selection are not far to seek. From the late fifteenth century the feuing of lands became a common and accepted practice which was encouraged by crown and parliament.⁵ Feu-ferme was a hereditary tenure by which, instead of rendering services in return for lands, a fixed sum of money was paid to the superior in perpetuity, or as has been said, it was "the setting (of) lands on a perpetual heritable tenure in return for an annual fixed money-rent (the feu-duty)".⁶ The increase in the popularity of the tenure has recently been traced with regard to ecclesiastical estates. Between 1400 and 1500 eighty-seven grants of this tenure were found, between 1500 and 1530 seventy-six, in the 1530s eighty-eight, in the 1540s two hundred and seventy-two and in the 1550s six hundred and forty-six.⁷ The great outburst of feuing of

1. Coupar Chrs., II, no. CLXXIII.

2. Oliphant, pp. 67-70, no. 119.

3. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no.5.

4. Paisley, app. II.

5. A.P.S., II, p. 49, cap. 15; Ibid., p. 253, cap. 36; Ibid., p. 376, cap. 35.

6. W.C. Dickinson, G. Donaldson and I.A. Milne, A Source Book of Scottish History, II, p. 239.

7. M.H.B. Sanderson, The Social and Economic Implications of the Feuing of Ecclesiastical Property in Scotland in the late fifteenth and sixteenth centuries, I, p. 15.

of ecclesiastical lands came, therefore, in the 1540s but from the beginning of the sixteenth century the increase in popularity of this form of hereditary tenure was clearly evident. Every hereditary grant of the office of bailie which has thus far come to light was made in this form of tenure, doubtless because it was the most common form of tenure in the period. The majority of the hereditary grants catalogued came in the 1540s, the very period when the feuing of churchlands blossomed. In the granting of hereditary tenure, as with the leasing of the office, the same procedure as with land tenures was employed by the Church.

The securing of the office was then followed by a two-prong move to gain both royal and papal confirmation of the grant. Doubtless the two processes would be begun at the same time, but owing to difficulties of distance and travel to and from Rome, the royal confirmation was generally the more quickly forthcoming.

The bailiary of the priory of Coldingham had been granted to Alexander Home of that Ilk in August 1465 and six months later on 12 January 1465/6 the grant was confirmed by the crown under the great seal.¹ The Homes with good reason felt insecure in their position and royal confirmations were sought twice more in the fifteenth century, in November 1472² and again in 1493.³ The bailiary of the detached barony of Lesmahagow which belonged to the abbey of Kelso was granted to James Hamilton of Finnart on 5 September 1532 by the abbot and convent and this was confirmed under the great seal two days later on the fifth of the month.⁴ On 28 February 1542 the

1. R.M.S., II, 859.

2. Ibid., 1093.

3. Ibid., 2162.

4. Ibid., III, 1220.

commendator and convent of Inchaffray had granted the bailiary of the detached barony of Auchtertyre (Wouchtertiry), which belonged to the priory of Strathfillan, to James Campbell of Lawers, and on 14 February 1543/4 this transaction was confirmed under the great seal.¹ On 8 November 1544 royal confirmation of the grant of the bailiary of the abbey of Kilwinning to Hugh, earl of Eglinton, and his heirs was forthcoming,² some months after the abbatial grants of 3 June³ and 28 October.⁴ Royal confirmation of a grant of the office of bailie may not always have been sought, for there are examples where no such confirmation can be traced in the great seal but this may partly be due to the fact that many crown charters quite simply were not recorded in that register. Be that as it may, the possession of such a confirmation would appear to have given additional security to the holder.

But almost certainly more important was papal confirmation of the action, for strictly speaking the alienation of ecclesiastical property was forbidden by canon law. As one authority has said, "no-one...not even the Pope, has the power to alienate ecclesiastical property validly without some proportionate reason. Further, the alienation, which in accordance with numberless decrees and canons of synods is thus forbidden, comprehends not only the transference of the ownership of church goods but also all the proceedings by which the property is burdened e.g. by mortgages, or lessened in value, or exposed to the risk of loss, or by which its revenues are

1. R.M.S., III, 2993.

2. Ibid., 3030.

3. S.R.O., Eglinton: GD3/1/724.

4. R.M.S., III, 3030.

for any notable time diverted from their proper uses".¹ Alienation, however, was possible in the following circumstances—urgent necessity, manifest utility, piety, and convenience. For this to be legally effected various stages of discussion and consent had to be gone through, but the ultimate was the securing of the consent of the Pope to the transaction under the pain of excommunication in accordance with the constitution "ambitiosae" of Paul II.² A grant in feu-ferme tenure constituted a perpetual alienation of an ecclesiastical office and for that reason the papal consent to and confirmation of the alienation was necessary. Often the dictates of canon law were ignored in the middle ages but in this case the recipient of the office probably considered it a worthwhile investment to secure papal approbation of the grant when it was made in fee and heritage. Once this had been gained his hold over the office was considerably strengthened.³

Though the process cannot, for lack of information, be followed completely with regard to any single bailiary, by drawing upon what is known of the history of a number of these bailiaries, it may be fairly clearly outlined. On receipt of the abbatial grant it might be reasonable to suppose that the officer would supplicate to the Roman chancery requesting confirmation. On 8 December 1467 the supplication of Alexander Home that the grant to him of the bailiary of the priory of Coldingham might be confirmed was entered into the register of supplications in Rome and thereby accepted.⁴ On 15 July

1. The Catholic Encyclopaedia, XII, p. 471.

2. Ibid.

3. This is borne out by the terminology of the supplication of Alexander Home for the bailiary of the priory of Coldingham on 8 December 1467. Home petitioned for papal confirmation "that the grant might have greater strength". (Register of Supplications, vol. 630, fo. 330 verso).

4. Ibid.

1473 the supplication of Walter Ker of Cessford, with regard to the bailiary of the abbey of Kelso was accepted and entered in the register¹ and the process was repeated some weeks later on 31 July 1473.² Given the nature of the hereditary grant it is to be expected that whenever the office of bailie was thus granted a supplication would be made to Rome for confirmation. Almost certainly, as the contents of the register of supplications become more readily available to the historian, more supplications for the confirmation of grants of the office of bailie will come to light. The period covered by the manuscript calendar thus far is the same period in which few bailiaries became hereditary.³ When the calendar for the 1540s finally becomes available, in all probability, supplications for confirmation of most of the hereditary grants will be found there.

The second and final stage at the Roman end of the process was the issue of papal bulls ordaining the establishment of a commission to determine whether or not the grant of the office was to the evident utility of the institution involved, and if this was found to be the case, to confirm the grant. Unfortunately, as with the register of supplications, the calendar of papal letters covers only the early period up to 1492⁴ and only one entry confirming the possession of a Scottish bailiary has been found. On 8 December 1467 the same day as the supplication was entered into the register of

1. Register of Supplications, vol. 691, fo. 293 recto.

2. *Ibid.*, vol. 694, fo. 35 recto.

3. Dr. A.I. Dunlop's manuscript calendar extends to the year 1479.

4. *C.P.L.*, XIV. The next volume is being prepared by the Irish Manuscript Commission and publication is reputedly imminent.

supplications a papal bull was issued to Alexander Thome (sic) telling of the grant of the office of bailie of the priory of Coldingham to him and ordering the abbot of Dryburgh to summon Prior John, the coment and Home to establish whether or not all that was set down was true and if the grant was to the manifest advantage of the priory. If this were the case it was to be confirmed by papal authority¹. No corresponding entry for the abbey of Kelso in 1473 has been found. That is not to say that a papal bull concerning the bailiary was not issued. Quite simply it may not have been enregistered. Modern bureaucracy, far less mediaeval, is not foolproof and one who hopes to find absolute uniformity in procedure will only be disappointed.

The transactions at the Roman end were merely one part of the process. The actual investigations and confirmations took place in Scotland. The process at the Scottish side may be pieced together by an examination of the history of the four bailiaries for which there exists sufficient information, namely those of Holywood, Kilwinning, Melrose and Inchaffray.

The first stage in the process with Holywood was the summons by James and Herbert, abbots of Dundrennan and Sweetheart, as judges and commissioners of the apostolic see, of the abbots, clerics and notaries of the city and diocese of Glasgow and elsewhere to appear

1. C.P.L., XII, p. 620

before them in the parish church of Biggar on a specified date and time to see and hear the confirmation and approval by apostolic authority of the grant of the bailiary of Holywood by the abbot John and the convent of the place as being "in evidentem dicti monasterii utilitatem" to Robert, Lord Maxwell, and his heirs. And further they were to hear the evidence of trustworthy witnesses with regard to the charters and instruments concerning the grant of the office to establish that they could say and prove nothing against the transaction.¹ Then at Biggar the commissioners, having heard the allegations and seen the charter, precept, instrument of sasine and other titles and considered depositions of witnesses for verification, pronounced sentence, confirming the grant of the office in feu-ferme.² Finally, James and Herbert, sitting "pro tribunali" by apostolic authority formally confirmed the grant as being to the evident advantage of the monastery and to the augmentation of the rental.³

Information available with regard to the similar process at the abbey of Kilwinning is supplementary to the above. As has already been noted, the grant of the office of bailie was made by the abbot and convent on 28 October 1544.⁴ It was not, however, until 10 February 1544/5 that a commission was issued by David Betoun, cardinal-archbishop of St. Andrews, to the chanter and sub-dean of Glasgow and to James Coutts (Cottis) canon of Glasgow, to investigate

1. St. Andrews Formulare, I, no. 77. A calendar of the original documents which Lauder used in the St. Andrews Formulare is in existence. (H.M.C. Rept., XV, pt. 8 (Buccleuch), pp. 71-3, nos. 170-3).

2. St. Andrews Formulare, I, no. 78.

3. Ibid., no. 79.

4. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no.5.

the grant with a view to confirmation by apostolic authority.¹

Presumably this delay was due to the time required for a supplication to be sent to Rome, to be heard and confirmed and for news of this acceptance to reach Scotland, sanctioning the establishment of a papal commission. The process was completed some two months later, when in April 1545 the grant was confirmed by apostolic authority before both parties and witnesses in the university of Glasgow.²

Evidence for the bailiaries of Melrose and Inchaffray is slightly less full. All that may be shown in each instance is that a commission of enquiry was established and confirmed the appointments by apostolic authority. On 17 May 1525 Laurence, bishop of Preneste confirmed by apostolic authority the appointment of Sir Walter Scott of Branxholm and his heirs to the bailiary of the abbey of Melrose,³ and on 28 May 1545 Cardinal-archbishop David Betoun confirmed by apostolic authority the grant of the bailiary of the abbey of Inchaffray to Laurence, Lord Oliphant.⁴

And so it is hoped some notion of the process involved in the granting of the office of bailie has been given. Something has been said of the factors which might affect the process. As it survives in the extant evidence, it may therefore, be summarised as follows. First a grant of the office of bailie was made in fee and heritage by the institution concerned to the principal and his heirs.

1. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning, Bundle 80, no. 10.

2. S.R.O., Eglinton: GD3/1/729.

3. Buccleuch, II, pp. 143-4, no. 132.

4. Oliphant, pp. 72-5, no. 121.

Thereafter the latter would supplicate to Rome, telling of the grant and asking that it might be confirmed by apostolic authority.¹ If this were accepted the supplication would be entered into the register of supplications and possibly on the very same day a papal bull would be issued for the establishment of a papal commission to determine whether or not the grant was to the advantage of the Church and if this were found to be the case, to confirm it by apostolic authority. On the receipt of this injunction in Scotland the papal commissioners would summon the principals in the transaction before them on a specified day and at a specified place. There the evidence would be seen and heard and if the grant were found to be of benefit to the Church and no instance has been found where this was not the decision, the grant of the office would be confirmed by apostolic authority. With this the position of the bailie and his descendants would be immeasurably more secure.

The late mediaeval Scottish nobleman was particularly careful of his title deeds and his charter chest would often be among his most prized possessions. Frequently the Scottish nobility were not law-abiding but they were generally law conscious. The greater the number of documents which could be produced to support any claim, either to lands or goods, the more secure the nobleman seems to have regarded his position. That class was only too willing to invest in such documentary evidence. The cost of this could, however, be prohibitive, especially if papal confirmation of a grant were also

1. The petition for confirmation was made by the bailie, not by the institution concerned. The "petitio" of James, Lord Ogilvy, is spoken of in documents concerning the bailiary of the abbey of Coupar-Angus. (Coupar Chrs., II, nos. CLXXXIII; CLXXXIV).

sought. In general, recourse was had to Rome only where a grant of the office was made in feu-ferme. In that case the grant of the office was hereditary and papal confirmation was a valuable investment.¹

The cost of securing a grant in feu-ferme tenure, be it of land or of the office of bailie, was considerable and was not to be entered upon lightly.² The distribution of the cost may be divided into two sections - the cost of negotiation and documentation in Scotland and the cost of registration and confirmation in Rome.

The initial costs within Scotland could be prohibitive. Even before the office had been granted money would often have to be expended in greasing the palms of ecclesiastics and in bribery of important officials. Only after the office had been successfully secured would the costs of documentation begin to mount. First there would be the fees for the drawing-up and registration of the feu-contract. This would be followed by the payment of the grassum for the feu-charter. Where grants of land were concerned this payment was general but no evidence of any such payment has been found with regard to a grant of bailiary. In this instance the principal intention of the churchman was not to raise capital but to secure

1. Only one instance has been found of a supplication for confirmation of a non-hereditary grant of the office, though as more of the Vatican material becomes readily accessible others may be found. This was a supplication made by Patrick Hepburn, earl of Bothwell, in 1502 for confirmation of the grant of the office of bailie of the abbey of Dunfermline. The tenure was to last for only nineteen years. (Register of Supplications, vol. 1150, fo. 139 verso). Possibly Bothwell had more regard for the niceties of canon law than many of his contemporaries and being aware that any long-term alienation in theory required papal confirmation was willing to invest in this.

2. Much of the information on the cost of securing a grant in feu-ferme within Scotland is taken from M.H.B. Sanderson, *The Social and Economic Implications of the Feuing of Ecclesiastical Property in Scotland in the late fifteenth and sixteenth centuries*, II, pp. 304-5.

protection and in all probability the grassum was waived. Returning to the question of documentation, a notary's fee would next have to be paid for the composition of an instrument of sasine and the registration in his protocol book. The document might also be registered in the records of some local court in anticipation of later challenges to its authenticity.¹ Then it was often confirmed under the great seal² and payment would have to be made to numerous clerks on the passage of the document through the various governmental offices. The fees and backhanders to expedite progress might add up to a considerable sum.

However, the costs at the Roman end of the transaction could, if anything, be even greater and some appreciation of this may be gained from three extant curial documents.³ But before that process was even begun a supplication would have to be drafted in Scotland. This was a complicated and responsible task, for any mistake or omission on the part of the clerical lawyer might lead to later challenges to the legality of the document and further costly legal dispute.⁴ Thereafter the document would have to be transported across Europe to Rome and though itinerant clerks would carry a number of these, they would charge for this service. Given the difficulties of travel and communication at that period many would

1. The obligation of Robert, Lord Sempill, and his son made to the abbey of Paisley in 1545, so that it might have more force and effect was to be entered in the records of the lords of council "and the lordis to interpone thair authoritie tharto", and in the records of the official of Glasgow (Paisley, app. III). Similarly the grant of the bailiary of the barony of Tynninghame in 1542 to Robert Lauder of the Bass was to be registered in the archives of St. Andrews. (Haddington, II, p. 258, no. 357).

2. See for example R.M.S., II, 859; 2162; 3763; III, 62, 942, 1220, 2993, 3030.

3. A.I. Dunlop, The Apostolic Camera and Scottish Benefices, pp. 306-7.

4. Calendar of Scottish Supplications to Rome 1418-1422, edd. E.R. Lindsay and A.I. Cameron, p. XVII.

doubtless be lost and the process would have to be begun again.

Once the document actually arrived in Rome the difficulties began in earnest. The palms of the curial officials would have to be greased to allow passage of the document at all and for the case set out in it to be heard. If after consideration the claim was regarded as justifiable it would be entered in the register of supplications and a papal bull would be issued. At its worst the following might be the charges:- for registration g.3, for distribution g.1½, for reformation of supplication g.2, for registration of supplication g.1½, for minuta bullae g.4, for a carta g.1, for a re-writing d.1, for a tax mutata given to the Rescribendarius g.1, for five taxes at five ducats each d.25, for the summaries g.5, for the plumbatores g.4, for the registration of the bull g.6, for the solicitor g.4, for the cedula g.½.¹ Consequently, the costs of documentation alone were considerable. At this point the resultant bull would be carried back to Scotland and yet again transport costs would accumulate.

Once in Scotland a papal commission would have to meet to consider the value of the grant to the Church. The commissaries might have to be bribed and their expenses covered. Then once

1. A.I. Dunlop, The Apostolic Camera and Scottish Benefices, p. 306. Unfortunately Dr. Dunlop, as far as may be determined, omits at any point in the text, to expand her abbreviations "d", and "g". From one point in the text itself it may be deduced that "d" stands for ducats. However by using another source it may be confidently surmised that "g" stands for grossi. Luca Pacioli in his Summa de Arithmetica, Geometria, Proportioni et Proportionalita, states on fo. 61 verso that there were seventeen grossi to a ducat and on fo. 67 recto in a list of abbreviations in the margin he includes "g" to represent "grosso".

again the process of documentation was begun. Notices were issued of the intention to hold a tribunal to examine the case and documents of confirmation and notarial instruments were again drawn up.

Over-all the cost of securing confirmation of a grant of the office of bailie could be prohibitive. In an acutely law-conscious society the acquisition of such documentary confirmation was often considered a necessary evil. Where a grant of lands alone in feu-ferme was concerned often certain of these payments were made in instalments and the next generation might have to bear the burden but in the case of a grant of bailiary in fee and heritage the recipient would generally be of sufficient wealth to afford the considerable outlay in securing confirmation.

However, it might be supposed that payment did not stop with the acquisition of the office. The grant was always made in feu-ferme tenure and the basic intention in the employment of this form of tenure was in general the raising of ready money "in augmentation of the rental". A feu-duty was prescribed to be paid ad infinitum to secure a steady flow of money to the Church in future years. The reason for a grant of bailiary was, as has been seen, different. This form of tenure was employed solely because it was the most popular at the time in question. In the case of a grant of the office of bailie in feu-ferme tenure the question of the payment of a feu-duty of any substantial nature simply did not arise.

In the instances where a full grant of the bailiary in feu-ferme is extant and a reddendo clause was included the payment was without exception purely nominal. The grant of feu-ferme tenure was made in blenche-ferme, almost a contradiction in terms. In the grant of the

bailiary of the barony of Lesmahagow to James Hamilton of Finnart in 1532 the feu-duty was to be one penny per annum to be paid at the castle of Nathane "in the name of blenche-ferme".¹ In the grant of the bailiary of the abbey of Coupar-Angus in 1539 the feu-duty was to be the accustomed services of the bailie and one penny Scots per annum, if sought, of the lands of Clintlaw.² At the abbey of Inchaffray in 1544 the feu-duty was yet again set at one penny Scots per annum to be paid at the monastery in the name of blenche with the services of the bailie.³ And finally the feu to be paid at the monastery of Kilwinning in the grant of the office in 1544 was yet again one penny per annum in blenche-ferme.⁴ In each of the above instances where the office of bailie alone was granted the fee to be paid for the grant of the office was purely nominal, emphasising the fact that the tenure of feu-ferme was used merely as an expedient and not for as a means of raising money.

There does exist, however, another class of document in which both the office of bailie and the lands over which the office was to be exercised were granted together in feu-ferme tenure. In these cases a feu-duty was often prescribed. In the grant of the lands and bailiary of the barony of Tynninghame in 1535 the feu-duty for both was fixed at £62 Scots per annum⁵ and when the estates and bailiary were again granted in feu-ferme in 1540 the feu-duty was set at £76 Scots.⁶ In the grant of the bailiary of the sea-gate of Newbattle Abbey along with certain lands in 1541 the feu-duty was

1. R.M.S., III, 1220.

2. Coupar Chrs., II, CLXXIII.

3. Oliphant, pp. 67-70, no. 119.

4. S.R.O., Eglinton: GD3/1/724.

5. Haddington, II, pp. 254-5, no. 351.

6. Ibid., p. 258, no. 357.

£40 per annum with five merks "in augmentation",¹ and finally in 1542 the bailie of the barony of Auchtertyre (Wouchtertiry) in return for the office and the grant of the lands over which the jurisdiction was to be exercised in feu-ferme obliged himself and his heirs to pay a feu-duty of £10 per annum.² In all of these instances the feu was almost certainly paid for the lands and not the office with the consequence that the conclusions reached above are not invalidated. Consequently, overall the costs of securing a grant of the office of bailie of a Scottish ecclesiastical institution could be considerable but it would appear that most holders of the office thought the trouble and expense to be worthwhile.

And so it is hoped that some notion of the process involved in the granting of the office of bailie has been given. Something has been said of the factors which might affect the process of acquisition of an ecclesiastical bailiary by a particular family, the means whereby the consent of the Church to a grant was gained has been examined, the actual process whereby a bailiary tended to become hereditary throughout the century of this study has been described and the cost of securing documentary titles to the office has been outlined. But as has already been stated, the history of each bailiary was different and only the most general lines of development have been traced here. This chapter should in fact be read in conjunction with the histories of the ecclesiastical bailiaries gathered together in Appendix I.

However such confirmations and grants in fee and heritage were

1. R.M.S., III, 2362.

2. Ibid., 2993.

not always the final word in the history of a pre-Reformation bailiary. Despite both papal and royal confirmation of a grant an office could, on occasion, remain at issue and even be lost to the bailie's family.

Regardless of the papal and royal confirmations of the hereditary grant of the office of bailie of the abbey of Kilwinning to Hugh, earl of Eglinton, and his heirs in 1544, on the death of the earl in 1545 the transfer of the office to his successor was by no means smooth. As late as 26 September 1546 Hugh, the second earl of Eglinton, had still not been infeft in his offices for the abbot had refused so to do.¹ Eglinton's attorney protested for remeid of law before the Lords of Council and this action was presumably successful, for on 9 August 1547 the abbot and convent issued a precept of clare constat for his infeftment² and an instrument of sasine followed thereupon.³

Yet more unusual was the total exclusion of the family of Scott of Buccleuch from the bailiary of the abbey of Melrose after they had gained confirmation of the grant in fee and heritage.⁴ Presumably it was the opportunity afforded by the warding in Edinburgh at the king's will of Walter Scott of Buccleuch (Wicked Wat) in 1535⁵ which enabled James V to secure for himself the bailiary of one of Scotland's wealthiest abbeys. In that year he was appointed the "special protector, defender and bailie of the abbey's lands" for the length of his life by the abbot and convent.⁶ In both these

1. S.R.O., Eglinton: GD3/1/732.

2. S.R.O., Eglinton: GD3/1/733.

3. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no.19.

4. Buccleuch, II, pp. 143-4, no. 132.

5. Peerage, II, p. 229.

6. S.R.O., Register House Charters: RH6/1107.

instances papal confirmation of a grant was no guarantee of automatic succession to an office.

A third instance, though one in a slightly different class from the other two, was that of the priory of Coldingham from 1516 to 1522. In 1516 Alexander, third Lord Home, and his brother, William, were executed for treason and the estates and offices of the family were forfeited. In 1522, however, all were restored to his brother, George.¹ The forfeited offices included the bailiary of Coldingham Priory and in 1522 it was the king himself, or one acting on his behalf, who called upon the sub-prior and convent to receive as their heritable bailie George, fourth Lord Home.² Despite the hereditary nature of the office since 1465, for six years the family of Home lost control of it. In this instance it was the wider implications of national policy which affected the continued tenure of the office by a particular family.

But apart from upsets such as the above it is not uncommon to discover bailiaries passing from one family to another, particularly in the case of those institutions in the Central Lowlands in close proximity to the centres of royal power, those which were able to defend their own interests and maintain their freedom longer than their brethern elsewhere in the kingdom. In 1495 the bailiary of the abbey of Culross passed from the possession of the family of Blackadder of Tulliallan to that of the earl of Argyll³ and remained with that family until 1568.⁴ The bailiary of the priory of Inchmahome was held by John, Lord Drummond, in the 1490s⁵ but from

1. Peerage, IV, p. 458.

2. H.M.C. Rept., XII, pt. 8 (Home), p. 179, no. 305.

3. S.R.O., Cardross: GD15/153.

4. R.M.S., IV, 1885.

5. Menteith, I, pp. 520-1.

1531 onwards was in the hands of the family of Erskine.¹ At Scone Abbey in the late fifteenth and early sixteenth centuries a Blair of Balthayock was succeeded in the office by a Rattray of Rattray and an Abercromby of Inverpeffray² and by 1540 a member of the family of Charteris of Kinfauns was bailie.³ One clear instance of a complete change in the bailial family of an abbey was in relation to the nunnery of Elcho. In 1470 Laurence, Lord Oliphant, was appointed to the bailiary⁴ but prior to the Reformation it was the family of Wemyss who supplied the bailies of the priory.⁵ The history of the bailiary of the bishopric of Brechin is outlined elsewhere⁶ and is the finest example of the overturning of what may have appeared to be an inexorable process, from the outline sketched above, with the ousting of the family of Dempster from the office. It is, therefore, clear that the securing of that office did not necessarily ensure that it would always remain within that family.

Closely associated with the problem of security of tenure was the question of the hereditary destination of the office either in a lease of the "semi-hereditary" type or in a hereditary grant of the office. The ultimate ability of a family to hold on to an office of bailiary might be dependent upon the legal destination of the office.

It might be assumed that succession to the office would be of heirs male when its functions and duties are considered.⁷ However, as has already been noted, often the work of the bailie was not

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1. S.R.O., Mar and Kellie: GD124/1/962.
 2. H.M.C. Rept., IV (Rattray), p. 536.
 3. Acts of Council (Public Affairs), pp. 484-5.
 4. Oliphant, pp. 16-17, no. 28.
 5. Wemyss, I, p. XXIV.
 6. Below, pp. 329-332.
 7. Above, pp. 26-58.

actually performed by the office-holder but was undertaken by his deutes. If, as was law in Scotland, a female might succeed to lands and jurisdiction it might be supposed that she might also on occasion succeed to an ecclesiastical bailiary. The answer would appear to be that in cases of utmost necessity the female could in fact so succeed but only on the failure of all male heirs. Only one example of a female actually holding office has come to light. In March 1487 John and Alexander of Strachan along with their mother, Margaret Charters, were appointed to the sub-office¹ of bailiary of the barony of Murthly in Aberdeenshire.² Late mediaeval society was overtly male orientated and it was generally accepted that succession passed through and to the male. If anything the attitude of the Church was even more strongly in favour of male dominance. For this reason it is not unsurprising that in grants of the office the destination was generally to males.

In 1478 the bailiary of the abbey of Kelso was granted to Walter Ker of Caverton and his heirs male.³ In 1521 the bailiary of the estates of Kylesmuir and Barmuir was granted to Hugh Campbell of Loudoun and his heirs male.⁴ In 1538 Henry Stewart of Rosyth and his heirs male received possession of the bailiary of Inchcolm.⁵ In 1539 the abbey of Sweetheart granted its bailiary to Robert Maxwell and his heirs male.⁶ In 1544 the bailiary of Inchaffray was granted

1. Presumably this was the office of bailie-depute under another name. Even though a female was included in this joint grant her two sons would doubtless perform the duties of the office. It was extremely unlikely that she would ever have been actively concerned with the administration of the estates.

2. Coupar Rental, I, p. xxxv.

3. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.

4. Melrose, II, no. 598.

5. Inchcolm, no. LVIII.

6. Carlaverock, II, pp. 468-9, no. 88.

to Laurence, Lord Oliphant, and his heirs male¹ and in 1545 the bailiary of Paisley was granted to Robert Sempill and his heirs and successors male (*heredibus et successoribus masculis*).²

Occasionally in addition to the destination "male" it was specified that legitimate heirs alone could succeed to the office. This was of course the general practice of the period and it is only in relatively recent years that illegitimate children have been able to claim by right some share of their father's inheritance. In the grant of the office of bailie of the abbey of Holywood in 1495 to John, fourth Lord Maxwell, it was stipulated that he should share the office with his two legitimate heirs male.³ In 1532 the bailiary of the barony of Lesmahagow was granted in fee and heritage to James Hamilton of Finnart and his legitimate heirs male.⁴ In 1524 the bailiary of the abbey of Melrose was granted to Walter Scott of Buccleuch and his legitimate heirs male⁵ and in 1541 the bailiary of the sea-gate on the abbey lands of Newbattle was granted heritably to Alexander Atkinson and his legitimate heirs male.⁶ It is to be doubted if the inclusion of the word "legitimate" was of any great importance for it was inconceivable at that time that any illegitimate heir could succeed to his father. In all probability where the stipulation was not specifically made it was assumed that this was understood.

However, a number of grants did not specify whether or not the heirs were to be male and in these cases the female would in fact

1. Oliphant, pp. 67-70, no. 119.

2. Paisley, app. II.

3. Carlaverock, II, p. 450, no. 61.

4. R.M.S., III, 1220.

5. Buccleuch, II, pp. 142-3, no. 131.

6. R.M.S., III, 2362.

succeed to the office on the failure of heirs male. In 1523 the bailiary of the abbey of Holywood was simply granted to Lord Maxwell and his heirs and successors (*suisque heredibus et successoribus*).¹ The grant of the bailiary of the abbey of Kilwinning was made in 1540 to Hugh, earl of Eglinton, and his heirs,² while in 1542 the bailiary of the barony of Auchtertyre (*Wouchtertiry*) was granted by the abbot and convent of the monastery of Strathfillan to James Campbell of Lawers and his heirs and assignees.³ Finally in 1544 the bailiary of the abbey of Kilwinning was granted again to Hugh, earl of Eglinton, and his heirs.⁴ While in the above instances the succession of a female was not directly contemplated the form of destination was phrased so as to allow it.

Slightly more specific was the grant of the bailiary of the barony of Tynninghame to Robert Lauder of the Bass and his heirs in fee and heritage in 1542. The destination did not actually state that succession would eventually fall on the female heir, but after exploring in detail all channels for the succession of male heirs it was finally determined that failing all else the office of bailie was to pass to the nearest heir of Robert Lauder of the Bass whomsoever.⁵ It was only at this final stage that the succession of a female heir was even contemplated.

But the only grant which specifically entertained the possibility of the succession of a female heir was yet again that of the bailiary of the barony of Tynninghame to James Stewart, in this

1. St. Andrews Formulare, I, no. 77.

2. S.R.O., Eglinton: GD3/1/723.

3. R.M.S., III, 2993.

4. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no.5.

5. Haddington, II, p. 258, no. 357.

case in 1535. On the failure of his heirs the destination was outlined in great detail until failing all else it was stipulated that all would pass to "the elder of the heirs female without division of the lands and lordship".¹ It is, therefore, quite clear that in general succession of heirs male was contemplated but a number of noblemen seem to have been in a sufficiently strong position to secure the destination of their heirs general with the consequence that the possibility of the office being lost to the house was considerably lessened.

An added refinement with regard to the destination of heirs was the occasional stipulation that the succession should pass only to those heirs "gottin and to be gottin of (the) body"² or as it was put in Latin that they should be "de corpore legitime procreatis".³ Succession was to pass through the heirs of the body. The bailiary of the abbey of Kelso was granted to Walter Ker of Caverton and his heirs in 1478, whom failing the office was to pass to his brothers, Thomas, William and Ralph and the heirs male of the body of each in succession.⁴ This meant that Thomas and his sons would succeed before Ralph and his sons. This stipulation could and did affect the descent of the office. Similar stipulations were made in the grants of the bailiaries of Kylesmuir and Barmuir in 1521⁵ and Tynninghame in 1535⁶ and 1540.⁷ The precise legal jargon employed in each document must consequently be carefully examined. It will be found that each was different and was doubtless the result of complicated bargaining which might reflect the strength of either the monastery or nobleman in question.

1. Haddington, II, pp. 254-5, no. 351.

2. Melrose, II, no. 598.

3. R.M.S., III, 1885.

4. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.

5. Melrose, II, no. 598.

6. Haddington, II, pp. 254-5, no. 351.

7. Ibid., p. 258, no. 357.

One further refinement in the destination of heirs was that on occasion a grant was made to the heirs and assignees of the principal. If the bailie was permitted to pass on the bailiary to assignees without the specific permission of the abbot and convent in the case of total failure of heirs, or indeed at any time, the bailie could dispoise the office on some friend or ally and his family would not lose total control over it. To be permitted to dispoise to assignees would be an additional and prized benefit in any grant of the office. In fact only two grants in which this faculty was permitted the recipient have been discovered. The earlier was the grant of the bailiary of the abbey of Inchcolm to Henry Stewart of Rosyth, his heirs and assignees for nineteen years in 1538¹ and in 1542 the prior and convent of the monastery of Strathfillan granted the bailiary of the barony of Auchtertyre (Wouchtertiry) to James Campbell of Lawers, his heirs and assignees in fee and heritage.² In each instance this stipulation gave added security to the grantee and completely removed control over the office by the ecclesiastical institution for the duration of the tenure specified.

The above examples speak only of the general destination of heirs but on occasion exceptionally explicit paths of descent were laid down. At the priory of Coldingham in 1465 it was stated that after the decease of Alexander Home, if his heirs were under age, George Home, son of Alexander, should have the office and administration of the bailiary until the majority of the heirs and failing George, the nearest tutors of Sir Alexander.³ In the grant

1. Inchcolm, no. LVIII.

2. R.M.S., III, 2993.

3. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

of the bailiary of the barony of Lesmahagow in 1532 it was stipulated that on the failure of the legitimate heirs male of James Hamilton of Finnart the office was to pass to James, earl of Arran and his heirs and failing these to any heirs whatsoever.¹ But possibly the most complicated destination of all was that outlined for the bailiary of the barony of Tynninghame in the grant of 1535 to James Stewart. On the failure of his heirs male the office was to pass to James Stewart, his second brother and his heirs male, whom failing to James Stewart, his third brother, and his heirs male, whom failing to Robert Stewart and his heirs male, whom all failing to the elder of the heirs female without division of the lands of the said lordship.² Careful specification of destination shows clearly the concern of the late mediaeval nobleman for the succession of the heirs of his body and the retention in his family of the offices which he had acquired.

It is, therefore, clear that the form of destination in grants of the office of bailie did vary with regard to the specification of heirs, heirs male, legitimate heirs male and assignees. In general the late mediaeval churchman was legalistically minded. These destinations were carefully phrased and meant precisely what they said. The office of bailie was in fact transmitted in the same variety of ways as was other landed property and offices, but with one significant difference. The form of the destination of the bailiary is of more significance to the historian, as has been noted, because the process of acquisition of the office was essentially one of negotiation. From the terms of each grant some

1. R.M.S., III, 1220.

2. Haddington, II, pp. 254-5, no. 351.

appreciation of the relative bargaining strength of each of the parties may be gained.

Thus far many of the factors affecting the method and speed of acquisition of an ecclesiastical bailiary in late mediaeval Scotland have been examined. The methods of securing consent, the forms of tenure and the destination of heirs have been considered. To conclude this chapter a detailed survey of the process of acquisition by a single family, that of Ogilvy of Airlie, of two monastic bailiaries, those of Arbroath and Coupar-Angus, will be undertaken. In this way not only the major turning-points in the process, but also the finer preliminary movements may be viewed.

The Ogilvies of Airlie, possibly more than any other Scottish noble family, based their fortunes upon the office of bailie. For more than a century before the Reformation they served as bailies of the two great monasteries of Arbroath and Coupar-Angus and in addition, they may have held also the bailiary of the bishopric of Brechin.¹ The process whereby they established themselves in these offices² is a microcosm of that process which it has been the aim of this chapter to trace.

1. See Appendix I.

2. The historian is fortunate in the abundance of relevant source material. As regards the abbey of Coupar-Angus there exists "an assemblage of Cistercian writs...in extent, second only to the volumes containing the charters of Melrose". (Coupar Chrs., I, p. V) This comprises the two printed volumes of the Grampian Club (Coupar Rental), complemented by two volumes of the Scottish History Society. (Coupar Chrs.) For the abbey of Arbroath a massive collection of documents was published by the Bannatyne Club. (Arbroath). These sources have an overtly ecclesiastical bias, but may be balanced and supplemented by the family papers of the Ogilvies of Airlie, deposited in the Scottish Record Office. (S.R.O., Airlie: GD16). It happens, therefore, that more information relevant to the subject is extant for this family and for the above abbeys than is the case in any other instance. It is a matter of great convenience that the history of the family of Ogilvy and their connection with the above ecclesiastical institutions may be examined in such detail to provide an archetype of the process considered above.

For the sake of convenience, and indeed clarity, the history of each of these offices will be considered separately, but it must constantly be borne in mind that the history of these institutions was inextricably intertwined. It has already been noted that it was to men of power and influence that the Church turned for protection in the fifteenth and sixteenth centuries. As the acquisition of the office of bailie would in itself increase both the power and influence of the holder, he would become yet more desirable to have as a bailie. The fact that from the family of Ogilvy had already sprung the bailies of the estates of Arbroath for nigh on half a century, must have influenced the minds of the abbot and convent of Coupar-Angus when choosing their bailie. It is to be suspected that something of a self-perpetuating momentum was integral to the process.

Sir Walter Ogilvy of Auchterhouse was the first of that family to appear as bailie of the monastery of Arbroath. On 4 April 1409 an inquest was held "*coram nobili viro Waltero de Ogilwy ballivo regalitatis de Abbirbrothoc*".¹ In 1422 the same man acquired from the abbot the lands and barony of Bolshan with the castle, which was the official residence of the bailie of the abbey and was to be the principal home of the family of Airlie for the next two centuries,² and in 1428 his son, Sir John Ogilvy, was appointed bailie-depute of the abbey.³ By 1445 it is clear that the Ogilvies did have some presumptive right to the office and might with justification seek to defend it.

But regardless of the long connection of the family of Ogilvy with the office, in 1445 for an undisclosed reason, Alexander Lindsay,

1. Arbroath, II, no. 49.

2. W. Wilson, The House of Airlie, I, p. 50.

3. Ibid., p. 60.

Master of Crawford, became bailie of the monastery.¹ In all probability this appointment was due to the power of the Lindsay family in Angus and to the fact that Alexander was already experienced in the office, being also the justiciar of the abbey of Scone.² Up to this point the sources are generally in agreement, but at this juncture partisan feelings begin to colour the narrative.

The mass of opinion put the blame for the ensuing conflict between the families of Ogilvy and Lindsay on the shoulders of the fiery Alexander Lindsay, later to be better known as "Earl Beardie".³ George Buchanan maintained that "is cum numerosa comitum turba, coenobio gravis esset, ac pro praefecto iuridico dominum se gereret a Coenobiarchis magistratu eiectus est, surrogato in eius locum, Alexandro Ogilvio".⁴ Another commentator asserted that "Alexander Lyndesay, son to the Earl of Crawford, pretended a title to the Baylerie of Arbrothe out of which he was kept by Alexander Ogleby whose title was equal to his, if not better",⁵ a statement born out by the information cited above. Bishop Lesley did not mince words when he stated that Lindsay "purposeit to haif spulyeit the abbey of Arbroath",⁶ while one anonymous writer making no mention at all of the pretext of the office of bailie bluntly stated that he wanted

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1. G. Buchanan, Rerum Scoticarum Historia, p. 111; R. Lindsay of Pitscottie, The Historie and Cronicles of Scotland, I, p. 54; J. Lesley, The History of Scotland from the death of King James I in the Year 1436 to the Year 1561, p. 18; and other sixteenth century historians.
 2. Lord Lindsay, Lives of the Lindsays, I, p. 128, note 2.
 3. Peerage, III, p. 21.
 4. G. Buchanan, Rerum Scoticarum Historia, p. 111.
 5. W. Drummond of Hawthornden, The History of Scotland from the year 1423 to the year 1542, p. 46.
 6. J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, p. 18.

"bona monasterii de Arbrotht habere".¹ Only one lone voice stood forth to proclaim Lindsay's innocence, laying full blame for the dispute on the Ogilvies but he himself was a Lindsay and some allowance must be made for partisan feeling. He stated quite falsely, as has been seen, that the bailiary of the abbey pertained to Alexander Lindsay and that Alexander Ogilvy "quhidder it come of his awin ambitioun or gif it was the abbottis plesour" usurped the bailiary and put out Lindsay.² Ogilvy could hardly have usurped the bailiary if it had already been in the family for fifty years but there was probably an element of truth in the remark insofar as Ogilvy was unlikely to accept tamely the loss of the office.

Whatever was the cause it is clear that the abbot and convent deposed Lindsay and put in his place Alexander Ogilvy of Inverquharity, or as a slight variation in one source has it, upon his deposition, the "iratus magister minavit abbatem" who appealed to Walter Ogilvy as bailie for aid.³ This Walter was second cousin to Alexander⁴ and his presence in the battle which ensued in all probability led to the confusion. At any rate Lindsay refused to accept the situation and arbitration failing "they resolved at last to decide the cause by their swords".⁵ The bloody battle which ensued resulted in the death of Alexander Ogilvy with victory going to the Lindsays, who as one chronicle said "wan the field and held it and efter that a gret tyme held the ogilbyis at gret subiection

1. Anonymous, Extracta ex variis cronicis Scotie, p. 241.

2. R. Lindsay of Pitscottie, The Historie and Cronicles of Scotland, I, p. 54.

3. Anonymous, Extracta ex variis cronicis Scotie, p. 241.

4. Peerage, I, 112; W. Wilson, The House of Airlie, I, p. 66.

5. W. Drummond of Hawthornden, The History of Scotland from the year 1423 to the year 1542, p. 46.

and tuke thair gudis and distroyit thair placis".¹

No text is extant to tell how the Lindsays exploited their victory, or if indeed they were in any position to exploit it. The only means whereby the consequences of the battle might be tentatively gauged is by an examination of the register of the abbey to determine the influence of either family and because for the period immediately following the battle the register yields little information, no definite conclusions can be drawn. Certainly no-one bearing the name of Lindsay is apparent.

It was on 1 March 1453 when Thomas Ogilvy of Clova was appointed bailie in hac parte to receive the resignation of the sasine of certain lands, that contact with the family of Ogilvy was renewed.² This reference, however, is misleading insofar as it might be taken to indicate the predominance of the Ogilvy family with whom this study is concerned. But Thomas, though the younger brother of Ogilvy of Inverquharity, had sided with the Lindsays in the battle of 1445, and the barony of Clova, which formed the north-west barrier between the lands of the Lindsays and the Ogilvies, was his reward.³ Indeed this branch of the family was to feud with their kin for almost a century, as is indicated by the indenture of 1524 between the two branches which sought to end the "great skaiths, hurts, harms, slaughter of friends, tinsal of guidis through discord in times bygane, sen the battle of Arbroath", and to promote harmony in the future.⁴ His appointment might, therefore, be taken to represent the predominance of the Lindsay family.

1. The Asloan Manuscript, ed. W.A. Craigie, p. 220.

2. Arbroath, II, no. 99.

3. Lord Lindsay, Lives of the Lindsays, I, p. 131.

4. Ibid., pp. 447-51, app. XIII.

This is, however, the only such indication given by the register, for from 1456 onwards, the Airlie branch of the family was clearly in evidence. On 3 December of that year the abbot Malcolm appointed a certain James Ogilvy as his bailie in hac parte.¹ The identity of this man cannot be established with certainty but he was likely to have been Sir James Ogilvy of Airlie who appeared as bailie of the monastery of Coupar-Angus in 1465² and as bailie of the abbey of Arbroath in 1467.³ Though he was appointed only as bailie in hac parte, his function was one which might readily be associated with a full bailie. He was to ensure that a certain Hugh Hostlar should not intromitt with the lands of Bucht. It is significant that where there was a possibility of deforcement, it was a member of the family of Ogilvy of Airlie who was called upon to defend the interests of the monastery. The "gret subjeccion" at which the Ogilvies were avowedly held was apparently of relatively short duration and, as will become increasingly apparent, of little consequence in the ultimate fate of the monastery and of the history of the family of Ogilvy and their interests in the abbey.

Though the first indication that an Ogilvy was again serving as the full bailie of the abbey came only in 1467, there are scattered references to Ogilvies in the intervening period, which would appear to indicate some continuing Ogilvy interest in the monastery. On 15 February 1457 two Ogilvies were employed in a perambulation of lands.⁴ Of the fifteen in the assize, among the landed men were Walter Ogilvy

1. Arbroath, II, no. 106.

2. Coupar Chrs., II, no. CXXXIX.

3. Arbroath, II, no. 174.

4. Ibid., no. 112.

of Beufort, who was the sheriff-depute of Angus and Banf¹ and Walter Ogilvy of Inverquharity, who cannot be identified with certainty. However, it is of significance that a member of the Inverquharity branch of the family was found serving the abbey only twelve years after the battle with the Lindsays. A document witnessed by a certain Walter Ogilvy of Campsie on 12 April 1466 constitutes the only other evidence of the presence of the family in this period.²

In 1467 James Ogilvy of Airlie is encountered for the first time as the undoubted full bailie of the abbey (Ballivus... Malcolmi...abbatis...de Abribrothoc).³ This is the earliest reference which shows conclusively that the office of bailie of both monasteries was held by the same man. Only two decades after their defeat at Arbroath the Ogilvies were again a force to be reckoned with north of the River Tay.

Such is the state of the surviving evidence that it is almost fifteen years before another member of the family is encountered in an official capacity. In 1481 a certain John Ogilvy was cited as a witness to a charter,⁴ but on 8 August the following year the family again came to the fore.⁵ On this date the election of William Buncle (Bonkyl) as abbot of the monastery took place. Of the four witnesses to the document certifying the election, two were members of the family of Ogilvy, namely John Ogilvy of Airlie, presumably still bailie of the abbey, though he was not so termed in this instance, and John Ogilvy of Ballindoch, his son and apparent heir,⁶

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1. Peerage, I, p. 110.
 2. Arbroath, II, no. 168.
 3. Ibid., no. 174.
 4. Ibid., no. 208.
 5. Ibid., no. 211.
 6. Ibid., no. 281.

who was on occasion also styled "of Fyngask",¹ and appears twice in the next few years as a witness to documents in 1483² and in 1485.³ As witnesses to a document of such prime importance to a monastic house men of the highest calibre would be sought. It is an indication of the position of the house of Ogilvy that it was to them that the abbey turned in the first instance.

During the previous forty years the gradual extension of Ogilvy prominence from witness, to bailie in hac parte, to full bailie has been traced, but it was only in 1485 that an actual letter of bailiary conferring the office upon an Ogilvy is encountered. On 26 November of that year James Ogilvy of Airlie and his son and heir, John Ogilvy of Ballindoch, were created justices, chamberlains and bailies of the abbey by the abbot and convent, for a period of nineteen years, on the death of John Ogilvy of Lintrathen (Luntreith) who, the grant narrates, was the last bailie.⁴ Though this is the only evidence to the effect that he was bailie of the monastery he did appear in a number of documents from 1459 onwards, either as a witness or as a servant of the abbey.⁵ Moreover, he was the father of James Ogilvy of Airlie,⁶ a fact which would appear to indicate that the office of bailie was held by three generations of the family. As has already been noted, James Ogilvy was earlier styled bailie and presumably he held that office together with his father in the same way as his own son was

1. Peerage, I, p. 116.

2. Arbroath, II, no. 235.

3. Ibid., no. 251.

4. Ibid., no. 281; National Library of Scotland, Registrum Nigrum, Adv. M S. 34.4.3., fo. 112 recto.

5. Arbroath, II, nos. 128, 132, 150, 171.

6. Peerage, I, p. 113.

to hold it with him. Though the grant was limited to a term of nineteen years only, it is clear that there was already a tendency for the office to pass within the members of this single family.

From this point onwards many more commissions of different varieties are extant and in most an Ogilvy found a place. On 15 April 1487 a large number of "procuratores, syndicos, commissarios, iusticiarios, camerarios, ballivos...negociorumque nostrorumque gestores" were appointed to represent the abbey at the next royal justice ayre to be held at Perth. Of the twenty-seven persons cited no fewer than six bore the name of Ogilvy.¹ These included the bailies James Ogilvy of Airlie, his son John Ogilvy of "Bawndowff" and Walter Ogilvy of Auchlevin, who was probably the second son of Sir Walter Ogilvy of Auchlevin, an ancestor of the earls of Findlater.² Of the five landed men commissioned in this instance, no fewer than three were closely related Ogilvies. Of the other three men who bore the name of Ogilvy, all were of lower social status and probably were burgesses.

Even in a purely ecclesiastical court an Ogilvy found a place. On 3 January 1492 three clerics were sent by the abbot of Arbroath to appear before the bishop of Moray, in a case concerning the lands of Aberchirder. One of these was a certain Mr. Patrick Ogilvy of Forgie (Forge).³

Success breeds success and during the next few years the family of Ogilvy became ever more prominent. On 5 April 1494 among the three landed men appointed by the abbot David to represent the abbey in the ayres of Lanark was included John Ogilvy of Fingask, the son

1. Arbroath, II, no. 311.

2. Peerage, IV, p. 16.

3. Arbroath, II, no. 336.

of Ogilvy of Airlie.¹ On 6 April, the next day, of the landed men appointed by the abbot to appear before the royal justices on ayre, no fewer than five were Ogilvies,² including James, Lord Ogilvy of Airlie, his son, John, two men who may have been his brothers, James Ogilvy of Deskford and Walter Ogilvy of Craigie or Auchlevin,³ and Sir Thomas Ogilvy, knight. On 13 July of the same year an inquest was held in the house of James, Lord Ogilvy of Airlie before John Ogilvy of Fingask, "bailie of the regality of Arbroath"⁴ and of the fifteen men on the inquest, there were included Thomas Ogilvy, knight and Oliver Ogilvy. The ties of kin in late mediaeval Scotland and their powers are clearly evident here.

Finally in this spate of commissions came that of 29 September 1500, when "bailies, commissioners, justices and chamberlains" were created within the regality of Arbroath and "Ethkarmur" for three years and longer, if the abbot so chose (*et ultra durando pro nostra voluntate*).⁵ Among these was John Ogilvy of Fingask but of greater interest was the inclusion of two members of the house of Hay of Yester, John Hay, Lord of Yester and John Hay of Snaid, his son.⁶ Members of the family of Hay also appeared as officials of the abbey in 1494⁷ and in 1506,⁸ a fact that might be taken to represent some challenge to the position of the Ogilvies. However, there is no evidence of the existence of any animosity between the two families, who had in fact a common and apparently amicable interest in the abbey of Coupar-Angus insofar as the Hays of Errol were early

1. Arbroath, II, no. 347.

2. Ibid., no. 348.

3. Peerage, IV, p. 17.

4. Arbroath, II, no. 349.

5. Ibid., no. 412.

6. Peerage, VIII, p. 432.

7. Arbroath, II, no. 347.

8. Ibid., no. 457.

benefactors of the abbey¹ and maintained their mortuary chapel in that place.² As members of the Hay family appeared only three times in relatively insignificant offices, the challenge, if there were any, must have been minimal. There is no indication that the power of the Ogilvies was in any way threatened.

Indeed on the death of his father in 1504, John, now Lord Ogilvy, took up residence at Bolshan Castle as bailie and justiciar of the abbey.³ As has been indicated, he had been bailie of the abbey jointly with his father since 1485 and had often appeared in an official capacity since then. On 7 September 1496 he appeared as witness to a document⁴ and on 12 December of the same year he was one of eighteen procurators to appear before the Official of St. Andrews.⁵ On 8 April 1502 he was one of six procurators of the abbey to appear before the provost of the burgh of Aberdeen,⁶ and on 9 May of the same year, he and Thomas Ogilvy were created justices for one year with three other people.⁷ It is clear from the above catalogue of his work, that he was by no means uninitiated in his office. The succession of an Ogilvy to the bailiary had been assured by constant employment of the heir as an official of the abbey.

From this time until 1514 there was once again a period of silence as regards the fortunes of the family of Ogilvy, but on 1 April by the second of the two letters of bailiary extant for the period, Alexander Crail, sub-prior of the abbey of Arbroath, and the

1. Coupar Rental, II, pp. 284-9, app. III, nos. 2, 3, 4, 6.

2. Ibid., I, p. xxiii.

3. W. Wilson, The House of Airlie, I, p. 86.

4. Arbroath, II, no. 365.

5. Ibid., no. 366.

6. Ibid., no. 425.

7. Ibid., no. 426.

convent created Lord Ogilvy their justice, chamberlain and bailie for a period of five years.¹ Thereafter there are relatively few references to members of the family, though one dated 10 January 1526 appears to indicate that the Ogilvies were not fulfilling adequately their office, for, as the royal letter stated, both abbot and bailie had failed to hold the justice ayres of the regality as they should have done. The king nevertheless generously allowed that they should suffer no "hurt tharthrow in tyme cumyng".² Certainly this does not seem to have prejudiced their position with the abbot, for only two weeks later a number of procurators, including Lord James Ogilvy were created³ and in September of the same year Walter Ogilvy was created a bailie in hac parte.⁴

But the predominance of the Ogilvy family was emphasised in two transactions of 18 July 1529. The first is a bond whereby David, abbot of Arbroath, promised to supple and mantain James Ogilvy in "his bailzerie officis and utheris possessiounis" saving only his allegiance to the king. Indeed he went even further promising that he should "nothir wise nor understand his nor thair dampnage nor scath on thair personis landis or possessiounis".⁵ The other document was also a bond whereby David bound himself to "ane nobill and mychty lord James Ogilvy of Erle" and in unique terms he promised that if at any time he should be "promovit till ane bischop or ony uther benefice or benefices" he would grant letters of bailiary to the said lord for nineteen years.⁶

1. S.R.O., Airlie: GD16/25/70.

2. S.R.O., Register House Charters: RH6/1002A.

3. Arbroath, II, no. 638.

4. Ibid., no. 630.

5. S.R.O., Airlie: GD16/46/8.

6. S.R.O., Airlie: 16/41/6.

The abbot in question was, of course, David Betoun, later to become cardinal-archbishop of St. Andrews and it must be wondered what prompted this powerful man to yield the above provisions. At this stage in his career it was likely with the high ecclesiastical connections which he possessed - his uncle, James Betoun, was by now archbishop of St. Andrews¹ - that he would secure other lucrative benefices and almost certainly a bishopric. The desire of an Ogilvy to extract these concessions is understandable, but the willingness of Betoun to comply is not. The historian of the late mediaeval Church tends to become cynical, when examining the motives for any agreement undertaken by a high-ranking ecclesiastic, but it may well be that in this instance, Betoun was moved not by political or financial motives, but by affairs of the heart. It is almost certain that by 1528 at the latest, Marion Ogilvy, the daughter of James, Lord Ogilvy, had become the mistress of David Betoun.² The question has often been asked why her father allowed Marion to co-habit with Betoun, when she could have been married to some powerful nobleman with the advantages of a marriage alliance to the Ogilvy family. The answer may well lie in this previously unsuspected quarter. The relationship between his daughter and David Betoun might strengthen his hands as regards the bailiary of the abbey. On Betoun's side it was in his own interest to maintain good relations with the father of his mistress and this could be done by way of concessions, as in the above bonds. However, love-struck as Betoun may have been, he was still unwilling to undermine his own position as abbot and it is noteworthy that the

1. J. Dowden, The Bishops of Scotland, pp. 40-1.

2. W. Wilson, The House of Airlie, I, p. 76.

extended grant of bailiary was to be made only upon his resignation of the abbacy. The problems occasioned by an over-powerful bailie would be left to be dealt with by his successor.

From this date until 1543 there was silence as regards the connection of the Ogilvy family and the abbey. On 8 April of that year a letter of procuratory created James Ogilvy of Airlie one of three commissioners to repledge a certain James Anderson to the courts of the abbey¹ and in the same year a commission was issued by Mary, queen of Scots, in favour of James Ogilvy and his son, bailies of Arbroath and Coupar-Angus, constituting them justices for trial and punishment within the said bailiaries.²

It may be seen, therefore, that from the period before the beginning of this examination in depth and into the period following it, the Ogilvies secured, maintained and strengthened their hold over the office of the monastery. Despite the military set-back in the 1440s, to judge by the record evidence, it never seemed likely that they would be ousted from their position. Indeed, the story outlined above is one of increasing dominance over the office. Doubtless there were set-backs and periods of stagnation but there is an impression of an almost irresistible pressure towards the supremacy of the family of Ogilvy.

Though the connection between the family of Ogilvy and the monastery of Arbroath was considerably older than that with Coupar-Angus, the process whereby they secured possession of the bailiary of the latter abbey may be traced in greater detail and a

1. S.R.O., Airlie: GD16/25/81.

2. Coupar Chrs., II, no. CLXXXVIII.

more definite progression in their proprietorial right in the office is evident.

The Ogilvies were tenants on the monastic lands of Coupar from at least 1443¹ but the earliest reference to an Ogilvy serving as an official of the monastery was 18 January 1460, when Patrick Ogilvy was stated to be bailie-depute of sir Thomas Livingstone, commendator of the abbey and of the convent of the place.² It has proved impossible to identify this man but on 19 May 1465 a familiar figure was encountered in the form of James Ogilvy of Airlie, "bailie of the monastery".³ This was the same man who served as bailie of the abbey of Arbroath from at least 1467 onwards and possibly from 1456. The process of Ogilvy consolidation in Angus was by now well under way.

No more is heard of the office until 8 May 1478 when a court of the abbey was held by John Ogilvy, bailie-depute of the lands and lordship of Coupar.⁴ It was probably this same man John Ogilvy "of (Keil)lour", who appeared as one of a large number of bailies and procurators of the abbey in 1479⁵ and again on 19 January 1480/1.⁶ Nothing is known of him and he serves only to indicate the continuing presence of the Ogilvies in the official life of the abbey.

On the same date John Ogilvy, bailie of the abbey of Arbroath,

1. Coupar Rental, II, p. xxv.

2. Ibid., I, no. 72.

3. Coupar Chrs., II, no. CXXXIX.

4. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, p. xxvi. Easson argues that the dating of this extract in the Fragmenta as 1488 is mistaken. As the other two references to this figure are dated 1480 and 1481 (Coupar Chrs., II, p. 76) he is in all probability correct.

5. Coupar Chrs., II, no. CXLVI.

6. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, p. xxv.

now in his eightieth year, was said to have been appointed bailie of the monastery of Coupar.¹ He held the office for only one year, resigning it to Sir George Rattray of Rattray.² The Ogilvy mentioned was presumably Sir John Ogilvy of Lintrathen, who was bailie of Arbroath Abbey in 1485,³ and who died in 1489.⁴

As is general in Wilson's work no supporting foot-notes are given but on 17 May 1484 a court of the abbot John Shennel was held by "George Rattray of that ilk,"⁵ bailie of the monastery of Coupar".⁶ Though it is impossible to determine precisely when Rattray gained the position, it is certain that he did hold it at some time. No specific reference to this Rattray has been traced but it is probable that he was related to the family of Ogilvy, for Margaret Ogilvy, daughter of David Ogilvy of Balmuto, was married to Silvester Rattray of that Ilk at some time in the mid-fifteenth century.⁷ It might at first sight appear that the Ogilvies had been ousted from their office by another local family but it is more likely that the Rattrays were clients of the more powerful Ogilvies. The usurpation by the Rattrays, if it were such, was shortlived, for on 15 June 1489 the figure of Archibald Ogilvy, bailie of the abbot John, is encountered.⁸ Archibald was probably the second son of Sir James Ogilvy of Airlie.⁹ He re-affirmed the hold of the Ogilvy family over the office of bailie of the abbey of Coupar.

1. W. Wilson, The House of Airlie, I, p. 70.

2. Ibid.

3. Arbroath, II, no. 281.

4. Peerage, I, p. 113.

5. The Latin says "de ibidem", which must have been a variation on the more common "de eodem".

6. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, pp. xxv-xxvi.

7. Peerage, I, p. 110.

8. Coupar Chrs., II, no. CLIII.

9. Ibid., p. 93.

With that the complicated and in many ways perplexing decade of the 1480s came to an end. It is unlikely that the family of Rattray ever presented any great threat to Ogilvy predominance but the possibility that this was the case and that they were backed by some more powerful family cannot be totally dismissed. It will become increasingly clear that the hold of the family of Ogilvy over the bailiary of the abbey of Coupar was somewhat less certain than that which they had over the bailiary of Arbroath Abbey and the above episode may represent one of the occasional challenges to their position which occur in the period under consideration. Be that as it may, the decade began with an Ogilvy as bailie and it ended in the same way. The position of the family may have been shaken, but it was not destroyed.

And so it is that in 1501 when contact is next made with an official of the abbey, "Johne Ogilby of fingask, knicht, comperand as procurature for the said convent" before the lords of council,¹ is to the fore. He has already been encountered as bailie of the abbey of Arbroath from 1485 onwards² and was to be the bailie of the abbey of Coupar also.³ The power wielded by this man must have been considerable.

This may well have led to the attempt to weaken the stranglehold over the abbey, one which had been gradually tightening as the years

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1. Coupar Chrs., II, no. CLVI.
 2. Arbroath, II, no. 281.
 3. Coupar Rental, II, app. IV, no. 12.

passed. At some time during the period 1507-12¹ an attempt was made by the abbot of Coupar to lessen the power of the Ogilvy family in the abbey, for a complaint by the king is extant in which he claims that "ye (the abbot) now makis impediment and stop to oure said cousing anent the said office of bailzery". He further commands the abbot that he "mak hym na impediment in the excersing and brouking of the said office of bailzery during the termes he has of the samyn to ryn".² The precise causes of the dispute may never be known, but it is significant that at this early date an attempt, which as will be seen, was ultimately unsuccessful was being made to curb the powers of the Ogilvies by what was by now doubtless a somewhat apprehensive monastic community.

This apprehension is fully understandable, for as the very same document stated concerning Lord Ogilvy, his great-grandfather and father had been servants and bailies of the abbey. This Lord Ogilvy was of the fourth generation of the family to hold the office, which must have been coming to be regarded as virtually hereditary in the Ogilvies. If the dating be correct, the letter refers to James, third Lord Ogilvy, who held the title from 1506 to at least 1513.³ His father John, the second lord, his grandfather Sir James Ogilvie of Airlie and his great-grandfather Sir John Ogilvy of Lintrathen⁴ as

1. This letter is stated by C. Roger to be roughly datable to the years 1509 to 26 (Coupar Rental, II, p. xxvi). It may, however, be more closely dated to the years 1507 to 1512. The document makes reference to a certain James, Lord Ogilvy, and must consequently be dated after 1491 when the peerage was granted. (Peerage, I, p. 114). As the letter was addressed to William, abbot of Coupar, this must refer to William Turnbull who was abbot from 1507 to 1523x4, (Coupar Chrs., p. 275) and as the letter itself makes reference to a five year tack, granted by the latter's predecessor, which had not yet expired the letter must date from before 1512, five years after the accession of Turnbull.

2. Coupar Rental, II, app. IV, no. 12.

3. Peerage, I, p. 116.

4. Ibid., 113-16.

this and other evidence propounded above shows, all held the office of bailie of the abbey. A continuous succession of Ogilvies may, therefore, be traced from the middle of the fifteenth century and, as will become clear, through the sixteenth century to the end of the period under consideration and beyond.

Silence again reigns as regards any office of the abbey until 6 May 1518 when a certain Anthony Duby was bailie-depute of the lands and lordship of Coupar.¹ It has proved impossible to identify this figure but it is to be suspected that he was under some bond to the Ogilvies. On 19 August of the same year Thomas Ogilvy of Clova was cited as one of four "arbiters and justices" of the abbey who were to make judgement concerning certain disputed lands of the abbey.² This might be taken as a sign that the rift between the two branches of the Ogilvy family, noted in connection with the abbey of Arbroath, was now healing. Both these men were minor officers, doubtless appointed by an Ogilvy bailie.

Despite the length of the above outline, the earliest extant letter of bailiary is dated only 4 May 1522. On this occasion the abbot William and the convent of the abbey created James Ogilvy of Airlie and John Ogilvy, his son and heir, bailies of the abbey for nineteen years.³ Within two years another letter of bailiary was issued to them.⁴ Once again the same two men were created bailies of the lands, annuals and annual rents of the abbey, but in this instance the grant was to run for only five years, as opposed to the

1. Fragmenta Scoto-Monastica, W.B.D.D. Turnbull, p. xxvii.

2. Coupar Chrs., II, no. CLXIII.

3. Ibid., no. CLXVI.

4. Ibid., no. CLXVII. This document is dated sometime in 1523 in the Airlie Inventory, but Easson challenges this, preferring a later date. (Coupar Chrs., p. 136). Certainly it can be no later than 22 February 1523/4 when William Turnbull was affirmed dead. (Ibid., p. 275).

earlier one of nineteen years. This would appear to constitute an about-turn in the policy of the community and may have been the result of hard bargaining since the previous grant. Possibly it was due to some challenge to Ogilvy power by William Turnbull, the abbot (1507x1524), who as has already been seen, had earlier attacked their position and a compromise solution had been agreed upon, whereby the powers granted to the bailie in the later document were to be slightly more extensive than in the earlier grant. As a corollary to this, the length of the term of the office was considerably shorter. This might strengthen the hand of the abbot slightly, for the relationship would have to be re-negotiated within five years. However, though the power of the Ogilvies may have been tested somewhat, there is no evidence that it received any great set-back and in 1539 the wide-ranging process of establishing that family as the hereditary bailies of the abbey was initiated.

The process was begun with the grant of the bailiary of the lands and possessions of the abbey, lying within the sheriffdom of Perth and Forfar, except the lands within the sheriffdom of Athole, to James Ogilvy of Airlie and his heirs male in fee and heritage.¹ The process, which had been underway for a quarter of a century had now reached its desired goal, despite the obstacles to be overcome en route. Moreover, it was specifically stated that it was because James, Lord Ogilvy of Airlie and his predecessors had served and protected the monastery as bailies that the grant was made.

On the same day Lord Ogilvy entered into a bond with the abbey, whereby in consideration of the fact that Donald, abbot of Coupar,

1. Coupar Chrs., II, no. CLXXIII.

had disposed to them heritably the office of bailie of the abbey, he bound himself and his heirs to be the "servandis, partakiris and defendaris" with their "freindis or kyn and all utheris that will do for (them)" of the abbot and convent in all their actions, pleas and quarrels against all persons save the king.¹ This bond is of importance in illustrating the relative strength of the abbey at as late a date as this. The abbot retained the option of rendering the grant void, a power which must have preyed on the sense of security of the Ogilvies in the office, so much so that they eventually succeeded in having it declared null and void in the period after 1565.² It is also indicative that the strife which has been noted periodically throughout the sixteenth century had not yet vanished completely. Strong as the Ogilvies might have been, they failed at this stage to dominate the abbey in the way that the Homes had done this at the priory of Coldingham.³

The Ogilvies did not yet rest content with their title. On 29 June 1540 in a court held by James, Master of Ogilvy, as bailie-principal of the abbey lands, the same James "exhibite and producit in jugement ane heritable infeftment of the bailzerie of the haill landis and lordschip of Couper...grantit to him, his airis male and successouris". The instrument was shown to the tenants of the lands in the presence of the abbot, who acknowledged that all therein was true. Ogilvy then asked for an "act of court" and the abbot obliged himself and his successors never to contravene the terms of the grant.⁴ The whole tenor of this grant was in direct

1. S.R.O., Airlie: GD16/25/76/1.

2. *Ibid.*, Airlie: GD16/25/76/2.

3. See Appendix I, pp. 345-8.

4. Coupar Rental, II, app. IV, no. 13.

contrast to that of the previous year, where the community seem to have been in a position to dictate more stringent terms to the Ogilvies. Indeed, in July of the same year the "protestatioun and certificatioun of the bailirie of Coupere" was again confirmed in a court of the abbey.¹ Knowledge of the possession of the bailiary in fee and heritage by the family of Ogilvy was to be spread far and wide among the tenantry.

Having gained the assent of the powers of the locality the assent of a wider arena was sought. In the original grant the approval of Robert, abbot of Balmerino, and Andrew Buttar, commissioner of the abbot of Melrose, was gained. Coupar was a Cistercian abbey and would require the approbation of the other Scottish Cistercian houses. But on 19 April 1540 the Papacy took cognisance of the case. Possibly the delay since September 1539 was due to the time required for a supplication to the Pope to be considered and accepted and a commission to arrive in Scotland. The document stated that the Scottish ecclesiastics had been appointed to consider the benefits to the monastery of the hereditary grant and six months later the three commissioners, William Gibson, Robert Crichton and Peter Sandelandis claimed that the grant was to the evident utility of the monastery and confirmed it by apostolic authority.

It might have been thought that the Ogilvies would have rested content with this, but on 12 December 1543 a commission was issued in the name of Mary, queen of Scots, in favour of James Ogilvy and his son, bailies of Arbroath and Coupar, constituting them justices

1. S.R.O., Airlie: GD16/20/3, a seventeenth century inventory of writs, no. 4.

for trial and punishment within the bounds of the said bailiaries. Thus their position was finally consolidated by both papal and royal confirmations.

There is almost something symbolic in the way in which the period under consideration ended with a joint confirmation by royal mandate of the Ogilvies, bailies of both monasteries, as justices within the two jurisdictions. It emphasises the probability that the Ogilvies regarded the possession of the twin bailiaries as part of a single policy and how the history of one bailiary affected that of the other in the century under consideration. In both instances an impression has been given of the process whereby a noble family in Scotland would secure and retain possession of a monastic bailiary, a process which was mirrored all over Scotland.

Thus it may be appreciated that the process of acquisition of an ecclesiastical bailiary was affected by a multiplicity of different factors. The ability of the institution in question to resist the inroads made by the local nobleman and the converse ability of the nobleman to dominate the institution determined the rate of the process and the conditions of the agreements reached. Though the process was in each instance slightly different a general impression of the forces in action may be given. The trend does appear to have been one of relatively steady progress, with intermittent interruption, towards hereditary tenure of the office.

The Remuneration of the Office of Bailie

"A loyal churchman, Bailie of the Abbey of Aberbrothock, large-hearted and of generous disposition" are the epithets which have been applied to the character and actions of Sir John Ogilvy of Lintrathen,¹ with the implicit inference that he was moved by some high-minded selflessness to serve as bailie of that monastery. The laird of Wemyss was said by one historian to have been "such a willing benefactor of the defenceless nuns" of Elcho that he was appointed bailie of that nunnery in 1552,² while another commentator claimed that bailiaries were "given only to those who were staunch friends of the Church".³ In contrast it must be suspected that the acquisition of the office of bailie was regarded as a transaction which would produce economic and political benefits, both immediate and long term, to the bailie and members of his family. The judicial, legal and administrative duties incumbent upon the bailie and his deutes, if conscientiously fulfilled, (and the royal letter of January 1526/7 would appear to indicate that on occasion they remained unfulfilled)⁴ would occupy a significant proportion of the nobleman's time and would not have been undertaken without some definite or expected reward.

One sure indication of the value inherent in the possession of an ecclesiastical bailiary was the evident desire and indeed even competition, on the part of the late medieval nobleman to secure for himself and his family title to an ecclesiastical bailiary. This

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1. W. Wilson, The House of Airlie, I, pp. 69-70.
 2. Wemyss, I, p. 136.
 3. J. Campbell, Balmerino and its Abbey, p. 221.
 4. S.R.O., Register House Charters: RH6/1002A.

point was well put by a historian commenting upon the contemporary scene south of the Border in England. "The often frenzied competition for the office on the part of acquisitive magnate and gentry families in the fifteenth and early sixteenth centuries in itself raises the probability that a monastic stewardship was something more than a well-paid sinecure".¹ The English situation was paralleled in Scotland and probably all over western Europe. As the chronological tables of these grants show,² the noble families of Scotland were only too eager to acquire possession of one of these offices and, in certain instances, of a number of them. The possession by various Scottish families of a number of ecclesiastical bailiaries has already been commented upon,³ but most astounding of all was the tally of the family of Maxwell. The Lords Maxwell acted as bailies of the abbeys of Holywood, Sweetheart, Dundrennan and Tongland, and of the collegiate church of Lincluden.⁴ The mere desire of these noblemen to acquire such offices, to secure them eventually in hereditary tenure and to prevent their acquisition by other families is in itself an indication of the value placed upon them by the late mediaeval Scottish nobleman.

The ends to which the nobility of Scotland went to acquire and to retain possession of these ecclesiastical bailiaries is likewise an indication of their value. Certain dubious manoeuvres were undertaken to secure the possession of an office. In January 1452/3 the promise of the bailiary of Newbattle was sufficient bait to

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1. R.B. Dobson, Durham Priory 1400-1450, p. 125.
 2. See Appendix 4.
 3. Above, p. 72-3.
 4. Carlaverock, I, pp. 174-5.

attract the support of Alexander Livingstone, councillor of the king, to the attempt of Thomas, monk of Newbattle, to secure the abbacy of that place.¹ The profits accruing from the office of bailie of the small Fife monastery of Culross must have been sufficiently lucrative to tempt Archibald, earl of Argyll, to oust Patrick Blackadder of Tulliallan from the bailiary, in what appears to have been a highly dubious transaction.²

On occasion, the bailie found it necessary to have recourse to the law courts of Scotland to defend his position, a costly undertaking at any time. In 1513 the profits of the office of bailie of the abbey of Dunfermline must have been sufficiently lucrative to prompt the Lord of Morton to go to law with the community of the abbey in an effort to retain control over it.³ In the middle of the fifth decade of the sixteenth century the families of Montgomery of Eglinton and Hamilton clashed over control of the abbey of Kilwinning, when the abbot, John Hamilton, refused for a time to infeft the son of the late earl in the hereditary bailiary of the abbey. The possible loss of the office was sufficient to provoke the Montgomeries to undertake the expense of a court hearing and legal proceedings.⁴ The office was sufficiently attractive for the family of Dempster of Auchterless to fight long, but unsuccessfully, to retain control of the bailiary, chamberlainship and justiciarship of the regality of the bishopric of Brechin. In March 1464/5 Patrick, bishop of Brechin, brought the matter of the retention of the office

1. C.P.L., X, pp. 570-1.

2. S.R.O., Cardross: GD15/153.

3. Acts of Council (Public Affairs), p. 13.

4. S.R.O., Eglinton: GD3/1/732.

by the Dempsters before the Lords of Council,¹ but only after the Dempsters had forcibly prevented two agents of the bishop from holding a chamberlain ayre in the name of the bishop in the burgh of Brechin.² Certain of Scotland's noble families were willing to expend considerable sums of money in legal wrangles to retain the office and were willing also to employ force.

The force employed by David Dempster of Auchterless was of a minor scale when compared with the ends to which other of Scotland's noble families went to protect their interests in ecclesiastical bailiaries. In 1445 the powerful families of Lindsay and Ogilvy clashed over the rights of possession of the bailiary of the wealthy Scottish monastery of Arbroath.³ There are varying estimates of the carnage of the battle, "quhilk was verrey crewellie fochin".⁴ One commentator claimed that there was merely "ane hunder slaine wpoun the wther syd",⁵ while at the other end of the scale, Lesley maintained that more than five hundred died.⁶ What is clear is that both sides arrived with large contingents of men and were prepared to fight to the death. Forty years later the family of Home resisted the attempt of King James III to annex the revenues of the priory of Coldingham to the chapel royal, one contributory factor which led to the battle of Sauchieburn in 1488 in which the king lost his life.⁷ In both instances, therefore, these families were willing to risk all

1. Brechin, II, no. LVIII.

2. Ibid., I, no. 90.

3. Above, p. 245-7.

4. J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, p. 18.

5. R. Lindsay of Pitcottie, The Historie and Cronicles of Scotland, p. 55.

6. J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, p. 18.

7. N. MacDougall, 'The Struggle for the Priory of Coldingham, 1472-88', Innes Review, XXIII (1972), pp. 102-114.

upon the field of battle to retain control over their respective bailiaries. For them to have undertaken such drastic action the rewards of the office must have been considerable.

The evidence of the value of an ecclesiastical bailiary has thus far been largely circumstantial, but there is contemporary and near contemporary evidence to indicate that possession of one could be an important source of income. Lindsay of Pitscottie, when commenting upon the temporary loss of the office of bailie of the abbey of Arbroath by Alexander Lindsay in 1445, stated that he was "on this way robed of his lyfe"¹ or livelihood. Doubtless this was an exaggeration made by a biased writer, for it is inconceivable that a man as powerful as the Master of Crawford should depend entirely for his daily bread upon such an office, but it is an indication that its loss could be a serious blow to the finances of a family. Possibly even more revealing are the abstracts of the claims of George, Duke of Gordon, for compensation with respect to his heritable jurisdictions on their abolition in 1746. The following values were put on the ecclesiastical jurisdictions by the Court of Session and for that reason they are probably undervalued. The regality of Spynie was valued at £500, the bishop's lands in Aberdeenshire at £300, the regality of Kinloss at £182/9/6 and the regality of Urquart at £300. This was the value placed on jurisdiction only and did not include revenues from the collection of rents and other dues. If these offices were worth such an amount in the eighteenth century, they were in all probability potentially of considerably greater value in the sixteenth.

1. R. Lindsay of Pitscottie, The Historie and Cronicles of Scotland, p. 54.

2. S.R.O., Gordon: GD44/9/2/15.

The evidence points to the fact that the office of bailie was indeed a lucrative one and one which the nobility of Scotland and Europe considered worthy of possession. Doubtless the benefits which would accrue to a bailie would vary in inverse proportion to the relative strength of the abbey and its ability to resist the influence of the bailie's family. The weaker the abbey was in relation to the bailie, the more the bailie might expect to receive or to extort as reward for his services. In a monastery such as the priory of Coldingham which was completely swamped by the family of Home to become little less than a family appanage, the rewards which would accrue to that family would be considerably greater than those which fell to Archibald Betoun of Capildray as bailie of Dunfermline Abbey, or to George Kincaid as the bailie of the abbey of Holyrood. Both these latter abbeys succeeded in retaining full freedom from subjection to any single noble family. Be that as it may, the principal point to note is that the office of bailie and the allied offices of chamberlain and justiciar were potential sources of profit to the Scottish nobility. Some attempt should now be made to determine precisely how these profits might have been reaped.

The most obvious and immediate means of payment of a bailie was the bailie fee which was included in many of the grants of the office. Indeed it would appear that the depute too was afforded a fee.¹ No complete list of these is available for the Scottish monasteries,² but a list of the sums of money spent by English ecclesiastical

1. In the 1440s Alexander Home as 'sub-bailie' of the priory of Coldingham received a pension of £10 Scots per annum for his services in the office. (Coldingham Charters, no. DLXVI).

2. Survey tables of statistics concerning the bailie fee may be seen in Appendix 3.

institutions on the administration of their estates is extant, and may be usefully used for the purposes of comparison.¹ The sums cited there, however, were the supposed total amount of money expended by each monastery on its lay administrators and not simply, as is the case for the Scottish examples, the fee of the bailie alone. Of the one hundred and fifty six monasteries included in the list on average only five per-cent of the total monastic income went on these payments.² This the commentator admits was small, but adds that these sums included only a part of the expenditure on administration. The inferior officials and the workmen hired for a definite period of time were omitted and money for food, travelling and livery of the officials was seldom included.³ Very few of these sums rise above double figures and of these most are less than £50. Only two, in fact, were for more than £100, that for Ramsay which was £130/11/6 and St. Peters Westminster which was £194/2/4.⁴ The sums declared to have been spent on monastic administration in England were patently low and the same was the case for Scotland, where the figures for the bailie fees (only one constituent part of the above figures) were even lower.

The identifiable fees of the Scottish bailies were paltry in the extreme and their precise value is on occasion impossible to determine. The fee could be paid either in money, partly in money and partly in kind, or wholly in kind and it is these latter factors which hinder attempts to assess the value of certain fees. However, the money equivalents of a number of these have been given and a

1. A. Savine, English Monasteries on the Eve of the Dissolution, pp. 248-9.

2. Ibid., pp. 249-50.

3. Ibid., p. 250.

4. Ibid., pp. 248-9.

general impression of their value may consequently be gained.

The lowest fee to come to light was that paid to Lord Maxwell as bailie of the abbey of Sweetheart in 1548, the fee being only five merks.¹ In 1470 the bailie of the nunnery of Elcho was afforded a fee of only ten merks,² as was also Henry Stewart of Rosyth as bailie of the abbey of Inchcolm in 1538.³ In 1516 the bailie of the bishopric of Galloway was to receive £5⁴ as were also the hereditary bailies of the nunnery of Eccles⁵ and of the abbey of Tongland.⁶ Lord Forbes as bailie of the estates of Keig and Monymusk received £6/13/4.⁷ Rising slightly in the scale was the fee of £10 paid to the bailies of the abbey of Kelso,⁸ the abbey of Dryburgh⁹ and the bailie of the estates of Bishop and Mukartshires.¹⁰ Slightly more lucrative was the fee afforded the bailie of the abbey of Inchaffray in 1544, where twenty merks per annum were granted.¹¹ Next was the more substantial fee of £20 paid to the Homes as bailies of the priory of Coldingham¹² and finally, the highest fee to be discovered was that paid to the earls of Eglinton as bailies of the abbey of Kilwinning, £40 per annum.¹³

From the above it may be clearly seen that none, save possibly the very last fee, was of sufficient worth to explain the ardent desire of the Scottish nobles to hold an ecclesiastical bailiary.

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1. G. Chalmers, Caledonia, V, p. 306.
 2. Oliphant, pp. 16-17, no. 28.
 3. Inchcolm, No. LVIII.
 4. S.R.O., Ailsa: GD25/1/239.
 5. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.
 6. G. Chalmers, Caledonia, V, p. 303.
 7. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.
 8. Register of Supplications, vol. 691, fo. 293 recto.
 9. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.
 10. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.
 11. Oliphant, pp. 67-70, no. 119.
 12. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.
 13. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and the barony of Kilwinning (1857), Bundle 80, no. 5.

This is even more patent when it is realised that the pound Scots was at that time worth only two fifths of the value of the English pound.¹ Those fees at the lowest end of the scale would not even cover the cost of securing the grant, certainly in the case of feu-ferme and possibly also in other instances.² Admittedly, in a largely non-cash economy any source of ready money would be invaluable to men whose wealth was largely tied up in lands and goods but often, as will be seen, these fees were not in fact paid in cash but in kind. In that case the value of the bailie fee was simply insufficient to account for the desire of the nobility to secure possession of these ecclesiastical bailiaries, though it may have been a contributory factor.

The most common means of payment of a bailie fee was the assignation of a specified sum to be taken from specified lands. This fee might be paid either in cash or in kind. Generally the bailie had to raise these sums himself. To determine which method was to be employed in any given case, careful attention must be paid to the precise phrasing of the grant, whether in Latin or in the vernacular. Where the genitive case was employed and the fee was said to have been raised "of" the lands, the sum was paid in kind. Where the fee was said to be raised "from" the lands and the Latin construction "de" with the ablative case was employed, the fee was paid in cash.

1. According to the supplication for confirmation of the grant of the bailiary of the abbey of Kelso to the Kers of Caverton in 1473 the bailie-fee was stated to be £10 Scots which was regarded as being the equivalent of £4 sterling. In the late fifteenth century, therefore, the Scottish bailie-fee was worth only two fifths of the comparable English value. (Register of Supplications, vol. 691, fo. 293 recto). This ratio differs from the conversion table printed in Statutes of the Scottish Church, ed. D. Patrick, p. cxiv, but the above figures, coming from a contemporary document, are almost certainly more reliable.

2. Above, p. 228-231.

Doubtless, the most prized fee was that paid in cash. This would supply liquid capital to the bailie in an otherwise largely barter economy. On occasion the precise method of raising the fee was not specified but the terms of the document lead to the belief that payment was made in cash and, in all probability, the bailie did not have to raise the money himself. This was probably the case with the fee of ten merks paid to the bailie of the abbey of Inchcolm;¹ the twenty merk fee paid to the bailie of Inchaffray abbey;² and the fee of £6/13/4 paid to Lord Forbes as bailie of the lands of Keig and Monymusk.³ In each of these instances the fee was so small that presumably the Church would find it no great hardship to pay its dues directly from its own cash resources. In the case of Lord Forbes as bailie of Keig and Monymusk, the fee was paid to him by the chamberlain of the regality and this may well have been the practice in these other instances.

But often the bailie had to raise his fee for himself. In 1470 Laurence, Lord Oliphant, as bailie of the nunnery of Elcho, was to receive ten merks Scots per annum from the lands of Kynnard in Fife.⁴ The Kers of Cessford as bailies of the abbey of Kelso were to receive a fee of £10 Scots per annum, to be uplifted from the lands of Bowden.⁵ Finally, the earls of Eglinton received their fee of £40 Scots per annum from the barony of Beith⁶ as the bailies of the abbey

1. Inchcolm, no. LVIII.

2. Oliphant, pp. 67-70, no. 119.

3. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.

4. Oliphant, pp. 16-17, no. 28.

5. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.

6. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and the barony of Kilwinning (1857), no. 5.

of Kilwinning. In all probability the bailie himself would in these instances raise the amounts specified in the grants with the possibility of creaming off illegally an additional amount.

However, the majority of the fees appear to have been paid in kind, though some of these had a definite money value affixed to them. In 1516 the earl of Cassilis as bailie of the bishopric of Galloway was paid as his fee the £5 lands of old extent called Cullintrae.¹ In the sixteenth century the bailies of the abbey of Tongland received as their fee the £5 lands of Cargen² and in 1548 Lord Maxwell, as the bailie to the abbey of Sweetheart, received as his fee the five merks lands of Loch Arthur.³

Other fees tended to be "mixed", where the value of one part was specified and the remainder was given in goods. In 1522 the Ogilvies of Airlie as bailies of the abbey of Coupar-Angus were to receive as their fee £6/13/4 from the lands of Adory with the revenues of Eglismady,⁴ while from 1545 the family of Sempill, as hereditary bailies of the abbey of Paisley, received as their fee three chalders of corn and 43/4 of the lands of Glen.⁵

Otherwise, the bailie fee appears to have been granted wholly in goods. The fee of Patrick Blackadder of Tulliallan, as bailie of the abbey of Culross and later as bailie-depute, was to be the lands of Balgony with all other duties, none of which was

1. S.R.O., Ailsa: GD25/1/239.

2. G. Chalmers, Caledonia, V, p. 303.

3. Ibid., p. 306. More insight may be gained of the precise nature of the fee from a grant of the bailiary in 1539. In this instance Lord Maxwell was said to receive in recompense for his services as bailie of the abbey of Sweetheart the lands of "Loch Arthur" for nineteen years, free of all mails and other duties, save teinds and multures. (Carlaverock, II, pp. 468-9, no. 88).

4. Coupar Chrs., II, no. CLXVI.

5. Paisley, app. II.

specified.¹ In 1524 the fee granted to Walter Scott of Branhholm, as bailie of the abbey of Melrose, was the farms of the lands of North House and Thirlstane.² In 1531 James Erskine, as bailie of the priory of Inchmahome, was granted as his fee the teind ~~shewes~~ of a number of specified places.³ In January 1537/8 Robert Douglas of Lochleven, as bailie of Bishop and Mukartshires, received as his fee the mails of the lands of Bracoly.⁴ In 1552 the laird of Wemyss, as bailie of the nunnery of Elcho, received as his fee the little meadow of Elcho,⁵ while the Wallaces of Craigie, as bailies of the Ayrshire lands of the abbey of Paisley, received as their fee six chalders and fifteen bolls of meal per annum from the tiends of the church of Craigie, which belonged to the abbey of Paisley.⁶ In each of the above instances the fee of the bailie was paid in goods, with the result that it is impossible to determine precisely the value of each. The responsibility for raising the fee would doubtless rest upon the shoulders of the bailie.

There would appear to have been something of an accepted or customary level for a bailie fee, as in many grants of the office the fee was not precisely specified, but it was merely stipulated that a fee similar to, or the same as, was customary should be given. Laurence, Lord Oliphant, when appointed bailie of the abbey of Inchaffray in 1469, was to receive the same fee as his predecessors.⁷

1. S.R.O., Cardross: GD15/153.

2. Buccleuch, II, pp. 142-3, no. 131.

3. S.R.O., Mar and Kellie: GD124/1/962.

4. S.R.O., Morton: GD150/958.

5. Wemyss, I, p. 136.

6. G. Chalmers, Caledonia, VI, pp. 823-4.

7. Oliphant, pp. 13-14, no. 23.

In 1502 the office of bailie of the abbey of Dunfermline was granted to Patrick, earl of Bothwell, with a fixed stipend (cum certo stipendio).¹ In the grant of the bailiary of the abbey of Scone in 1506 to John Rattray and Andrew Abercromby these bailies were to have the same salary and right of accommodation as their predecessor, Thomas Blair of Balthayock, had had.² In this instance the additional benefit of accommodation, which could be of some value, was added to the fee. Finally, in 1535 King James V, as bailie of the abbey of Melrose, was to receive as his remuneration "all feis and dewiteis aucht and wont thereof".³ This would tend to indicate that there was in existence a general notion of what the profits and emoluments of the office should be and that there did exist a precedent of a bailie-fee. It might also be taken to indicate that the financial benefits which would accrue to the bailie for his services were contained in a separate document or agreement.

On occasion, where no fee was specified in a grant of the office, and where the grant was also for the lands over which the office of bailie was to be exercised, it may be assumed that the very grant of the lands in feu-ferme, as was the case in every such instance to come to light, was in itself the equivalent of a substantial fee. This was the case with the grants of the lands and bailiary of the estates of Tyninghame to James Stewart in 1535⁴ and 1536⁵ and to Robert Lauder of the Bass in 1540.⁶ The grant of the bailiary of the sea-gate on the lands of the abbey of Newbattle was accompanied by a grant of lands as well⁷ and in 1542 the grant of the bailiary of the

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1. Register of Supplications, vol. 1150, fo. 139 verso.
 2. H.M.C. Rept., IV (Rattray), p. 536.
 3. S.R.O., Register House Charters: RH6/1107.
 4. Haddington, II, pp. 254-5, no. 351.
 5. Ibid., pp. 255-6, no. 353.
 6. Ibid., p. 258, no. 357.
 7. R.M.S., III, 2362.

barony of Auchtertyre (Wouchtertiry) to James Campbell of Lawers by the prior and convent of Strathfillan was accompanied by a grant of the lands over which the rights of bailiary were to be exercised in feu-ferme.¹ In each of these instances, therefore, the inclusion of a separate fee would have been unnecessary.

However, it is clear that in certain instances where no bailie fee, or a lower bailie-fee, was included in a grant some other method of remuneration was employed. On 18 January 1499/1500 James Dunbar of Cumnock was created bailie of all the lands of the priory of Pluscarden.² The letter of bailiary itself made no mention of any bailie fee, but another document of the same date may well have recompensed, for the prior and convent, in return for Dunbar's activities on their behalf, granted him a tack of the lands of "Estirfochabres, Westirfochabres, Ordidawrach and Aldchace with the lands of Luchris and two cobles of Spey" for the duration of his life, the same length of tenure as was specified in the grant of the office of bailie.³ On 17 October 1522 lands were granted in feu-ferme to Robert, Lord Maxwell, by the abbot and convent of the abbey of Holywood,⁴ and on 14 October 1523 a precept of sasine followed thereupon.⁵ In this case it would appear that the lands were granted to Robert in place of a direct fee in recompense for his services. The grant states that the £16 lands of old extent of Keir, the £4 lands of Bardannoch, the £4 lands of Kirkbride, the £3 lands of

1. R.M.S., III, 2993.

2. Pluscardyn, pp. 235-6.

3. P. Anson, A Monastery in Moray, p. 186; the grant of the fishing of two cobles on the Spey is extant also in S.R.O., Transcripts of Blairs Archives: RH1/2/305.

4. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170.

5. Sasine of the bailiary was given separately on 4 December 1523. Ibid.

Barjarg, "Ferdyne", "James", and Barbay, the 40/- lands of Allanton and the 20/- land of Swyre, all of the old extent, in the lordship and barony of Holywood, were granted to Robert, Lord Maxwell, and his heirs "for the augmentation of the rental" and also for the good counsel, help and assistance rendered to them and their monastery and to be rendered to them and their successors by Robert and his heirs. This grant of lands was explicitly made in return for services rendered and as the same grant also included the grant of the office of bailie of all the estates of the abbey, it is reasonable to assume that the services referred to were those of the bailie. In 1532 a grant of the bailiary of the barony of Lesmahagow was made to James Hamilton of Finnart, and while no fee was actually specified in the grant, the castle of Nathane was united to Lesmahagow "to be a part and pendicle of the same" in return for the good services of Hamilton (*pro bono servitio*).¹ This extension of his power may have been regarded as some form of remuneration. In the grant of the bailiary of the abbey of Coupar-Angus in 1539, the fee of the office was to be the commutation of part of the feu-duty owed for the lands of Clintlaw and Auchindorie with their pertinences, which were set hereditarily to James, Master of Ogilvy, and his wife, Catherine Campbell, in feu-ferme.² The actual setting of the lands was an additional reward. Means not immediately apparent might, therefore, be employed to recompense the bailie for his services.

Finally, another possible means whereby an abbey might reward its bailie, without the actual payment of a bailie fee, was to assign him

1. R.M.S., III, 1220.

2. Coupar Chrs., II, no. CLXXIV.

the profits of justice over which he exercised a greater or lesser degree of control in any case. This may well have been the case with the bailiaries of Torry in Aberdeenshire in 1527,¹ of Inchcolm in 1538² and Glenluce in 1543.³ These examples will be considered in greater detail later,⁴ but let it be said for the present that these profits may have been regarded as a suitable reward for the bailie.

Thus far something has been said of the methods of payment of the bailie-fee, and of the general smallness of the actual fees recorded. But in a number of instances there was no fee cited in the grant of the office at all. In neither of the formulary documents which are important as archetypes of the grant was mention made of the payment of any fee to the officer.⁵ This was also the case in the following actual grants of the office:-

The Lands of "Colinhath Rig" in 1472.⁶

Melrose Abbey in 1484.⁷

Arbroath Abbey in 1485.⁸

Holywood Abbey in 1495.⁹

Pluscarden Priory in 1500.¹⁰

Methven Collegiate Church in 1499 and 1505.¹¹

Barony of Barry in 1506 and 1511.¹²

1. Arbroath, II, no. 646.

2. Inchcolm, no. LVIII.

3. S.R.O., Ailsa: GD25/1/451.

4. Below, p. 294.

5. Dunfermline, no. 588; Kelso, II, no. 549.

6. S.R.O., Broughton and Cally: GD10/5.

7. Buccleuch, II, pp. 82-3, no. 84.

8. Arbroath, II, no. 281; National Library of Scotland, Adv. MS. 34.4.3, fo. 112 recto.

9. Carlaverock, II, p. 450, no. 61.

10. Pluscardyn, pp. 235-6.

11. Methven, p. 34.

12. Panmure, II, pp. 269-70, 279, 280.

Arbroath Abbey in 1514.¹

Melrose Abbey in 1519.²

Lordship of Ellon in the 1520s.³

It is possible that, as was the case in certain of the instances cited above, the fee was paid in some other way or was contained in a separate document or contract. But more likely is the probability that the potentialities of the office itself were considered sufficiently lucrative, and that no definite fee was required. Certainly it is inconceivable that any man, noble or not, would have taken on the burdens of the office with absolutely no payment in return. It may quite simply have been assumed that the bailie would avail himself ^{of} its perquisites.

The bailie-fee was the most obvious means of remuneration of the bailie but, as has been seen above, despite the various ways in which the fee might be paid and the difficulty in estimating the value of those fees paid in goods, save possibly that of the earl of Eglinton as the bailie of the abbey of Kilwinning, in no case was the fee of any great value. That is not to say, however, that it was not worth securing. When in 1485 Alexander Home supplicated to the Pope for confirmation of the grant of the bailiary of the priory of Coldingham, it was specifically requested that the fee of £20 Scots per annum should be allowed.⁴ Moreover, on occasion the fee was deemed to be of sufficient worth to defend at law. In 1491 John, Lord Drummond, was involved in litigation against the prior of Inchmahome before the

1. S.R.O., Airlie: GD16/25/70.

2. Buccleuch, II, pp. 133-4, no. 126.

3. S.R.O., Errol: GD175/340.

4. Register of Supplications, vol. 845, fos. 120 recto - 120 verso.

Lords of Council relative to his rights to the rents of certain lands as his bailie fee. On 24 January 1492 the Lords found that Drummond had the right to the subjects in dispute because they were assigned to him as his fee of bailiary.¹ However, the small fees which seem in general to have been the rule may have been a residue from the days when the office of bailie was a purely legal one and when the bailies were drawn from a lower echelon of society than was the case by the period under consideration, or they may, indeed, have been mere camouflage for the ecclesiastical records. The Church was in no position to alienate large sums of its own money, "the patrimony of the poor", to pay a realistic fee. Given, therefore, that the office attracted members of the highest class of society, and that the apparent payment of the official was paltry in the extreme, other means of emolument must have flowed from the office and other attractions must have drawn aspiring bailies.

One important possible source of financial gain to the bailie was the "lucra", the profits of justice of the late mediaeval legal system. Mediaeval justice tended to be long and drawn out, but it was also extremely costly for those appearing before the courts and lucrative for those who possessed rights of jurisdiction. As has already been noted, jurisdictional powers in Scotland were highly devolved by the fifteenth century, and the bulk of the justice most of the people of the land knew came via barony or regality courts. Rights of jurisdiction held by the lay and ecclesiastical nobility of the realm were jealously guarded against all incursions from any

1. Menteith, I, pp. 520-1.

source, be it royal, ecclesiastical or other franchise. The most obvious means of defence of jurisdictional freedom was the right of replegiation.

Possession of the right to repledge allowed the holder of a franchise, in certain circumstances dependant upon the extent of the franchise, to recall from another jurisdiction any person who fell under his own jurisdiction, so that the case would be heard in his own court. A caution of colreach or pledge that justice would be done was generally left with the other court. These rights of replegiation were jealously guarded, as may be clearly seen in a royal letter of 1450 concerning the lands of Luscar, Eviot and Dollar, all of which belonged to the "full and free regality" of Dunfermline. The king commanded that his justiciars, chamberlains, sheriffs, provosts of burghs and their bailies and other officials and ministers of law should allow to be repledged without hindrance to the regality the tenants, inhabitants and those who dwelled on those lands who had been arrested or attached to their courts.¹ Presumably this royal injunction was the result of some complaint on the part of the abbey. In 1488 the royal confirmation of the privileges of the abbey of Paisley specifically acknowledged (praecipue) the right of the bailies of the abbey to repledge from the justice and chamberlain ayres for cases involving the four pleas of the crown,² while in January 1526/7 the king ordered all royal officials to acknowledge the rights of replegiation of the abbey of Arbroath after its bailies had failed to hold a justice ayre.³ In almost every extant grant of the office of bailie it was upon the

1. Dunfermline, no. 428.

2. R.M.S., II, 1767.

3. S.R.O., Register House Charters: RH6/1002A.

shoulders of the bailie that this duty of replegiation was placed.

The desire and determination to defend these jurisdictional rights may have been due to matters of prestige and power, but most likely thoughts of finance were uppermost in the minds of the barons of Scotland. The implementation of justice was a burden, and an onerous one at that. Only the possibility of financial loss could have led to such determined attempts to defend and implement rights of replegiation. The court book of the regality of Dunfermline is illustrative of the frequency with which amercements were made,¹ while the action of the prior of the priory of Pittenweem in March 1529/30 demonstrated the preoccupation with finance. The prior made protest concerning a Berwickshire retour reduced on a summons of error, that "sen the personis at past apoun the inquest...war convict of wilfull error and that war certane of the saidis personis at duellis apoun the landis of Pettinweme...thar eschaet suld pertene to the said plaice becaus thai haif rycht tharto".² The profits of justice in late mediaeval Scotland were clearly worth securing.

As has already been noted, the implementation of justice on an ecclesiastical estate lay squarely on the shoulders of the bailie.³ The bailie was the chief legal officer of the barony or regality and it was into his hands that the profits of justice initially came. The principal sources of this income were the amercements, escheats and unlaws which the court could impose upon criminals who came before it. In addition powers of distraint and poinding were, in almost

1. Dunfermline Court Bk., pp. 42, 45, 56, 59, 73 etc., passim.

2. Acts of Council (Public Affairs), p. 322.

3. Above, p. 28-35.

every instance, placed with the bailie¹ and these too could provide a source of income.

Most grants of the office of bailie made some stipulation regarding the profits of justice, and wherever this was the case, the collection of the dues lay in the hands of the bailie, though the revenues were destined for the monastic or episcopal treasury. In 1506 Thomas Maule of Panmure, as bailie of the barony of Barry, was empowered to levy amercements and escheats, but these were to go to the use of the abbey of Balmerino (*ad usus nostros importandi*).² In 1485 the bailie of Arbroath Abbey was required to levy the amercements to the use of the monastery,³ as was again the case in 1514.⁴ In 1522 the bailie of Coupar-Angus was empowered, to use the Latin, "*eschaetas et amerciamenta levandi, percipiendi et ad nostros usus et utilitatem colligendi et importandi*",⁵ while the very next year the same bailie was empowered "*amerciamentis unlawis and eschetis to lift raiss and inbringe and uptak*".⁶ At the abbey of Inchmahome in 1531 the bailie was to gather the bloodwites and revenues of the court to the utility of the abbey.⁷ At the abbey of Melrose in 1535 the king, as bailie, promised that he, or rather his deputed, would uplift the escheats and amercements to the utility of the monastery.⁸ In 1544 the bailie of Inchaffray was ordered to levy the amercements, bloodwites and escheats of the courts and bring them to the abbey,⁹ and identical stipulations were made in the same year

1. See for instance Buccleuch, II, pp. 133-4, no. 126; pp. 142-3, no. 131; Carlaverock, II, p. 450, no. 61; pp. 468-9, no. 88; Paisley, app. II; Coupar Chrs., II, no. CLXXIII.

2. Panmure, II, pp. 269-70.

3. Arbroath, II, no. 281; National Library of Scotland, Adv. MS. 34.4.3, fo. 112 recto.

4. S.R.O., Airlie: GD16/25/70.

5. Coupar Chrs., II, no. CLXVI.

6. Ibid., no. CLXVII.

7. S.R.O., Mar and Kellie: GD124/1/962.

8. S.R.O. Register House Charters: RH6/1107.

9. Oliphant, pp. 67-70, no. 119.

at the abbeys of Kilwinning¹ and Paisley in 1545.² In each of the above instances, therefore, the task of actually raising the revenues of the court was placed on the shoulders of the bailie but also in each case it was specifically stated that these revenues should be applied to the benefit, use or utility of the monastic house concerned.

In two instances this monastic control was yet more defined and precise. James Hamilton of Finnart, who was appointed bailie of the barony of Lesmahagow in 1532, had the responsibility not merely of levying the revenues of the court for the benefit of the abbey of Kelso but also of rendering an account (*Compotum*)³ for these. Again the Ogilvies of Airlie, as bailies of the monastery of Coupar-Angus in 1539, were empowered to raise and gather the issues, amercements, bloodwites and escheats of the courts to the benefit of all but only, as the crisp and concise Latin states, "*cum ad hoc per nos et successores nostros requisiti fuerint et a nobis in mandatis habuerint et non alias neque alio modo*". In addition the bailies of Coupar were to present accounts of their operations to the community (*computum calculum ratiocinium et solutionem faciendo*), like the bailie of Lesmahagow.⁴ It was quite clearly the intention of both abbeys to retain a firm control over the actions of their bailies with regard to the finances of the courts.

In a number of instances, however, the bailie was simply enjoined to gather the revenues of the court with no actual

1. S.R.O. Eglinton: GD3/1/724.

2. Paisley, app. II.

3. R.M.S., III, 1220; S.R.O., R.M.S.: C2/24, fo. 252.

4. Coupar Charters, II, no. CLXXIII.

stipulation being made as to whom or to where these moneys were to go. The formulary grant of the bailiary of the abbey of Kelso merely stated that the bailie was to raise the escheats and forfeitures,¹ while the formulary grant of the office of justiciar of the abbey of Dunfermline in the early sixteenth century likewise made no specification as to where the revenues, once collected, were to be taken.² Actual grants of the office were on occasion similarly silent. In 1470 the bailie of the nunnery of Elcho was simply required to levy and receive the amercements and ~~issues~~ of the court.³ In 1471 Roger of Cairns as bailie of Dumfries was in a similar position.⁴ In 1484 Scott of Braxholm, as bailie of the abbey of Melrose, was enjoined merely "amerciamentis to uplyft and rais",⁵ as also were Thomas Maule of Panmure, bailie of the barony of Barry in 1511,⁶ and Robert Douglas of Lochleven, bailie of the archiepiscopal estates of Bishop and Muckartshires.⁷

It is impossible to determine what was intended to be the fate of the revenues in the above instances. It was most atypical of the legalistically minded late mediaeval churchman not to specify precisely what was to happen to such revenues. It is possible that the more common stipulation that the revenues were to be used for the "utility" of the abbey was mere form and that the inclusion or omission of this was random. Certainly it is highly probable that

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1. Kelso, II, no. 549.
 2. Dunfermline, no. 588.
 3. Oliphant, pp. 16-17, no. 28.
 4. S.R.O., Broughton and Cally: GD10/5.
 5. Buccleuch, II, pp. 82-3, no. 84.
 6. Panmure, p. 280.
 7. S.R.O., Morton: GD150/959.

in cases where the destination of the revenues of the court was not precisely defined, it was nevertheless assumed that all revenues would go to the benefit of the abbey.

It was only in a very few, and for that reason, outstanding instances that the revenues of the courts were specifically assigned in any way to the bailie. In 1538 the Stewarts of Rosyth, as bailies of the abbey of Inchcolm, were empowered "amersiamendis aschetis and unlawis of (the) said curtis to raiss uplift and aply to ther uiss",¹ though all deforcements and bloodwites were reserved for the use of the abbot and convent. In 1542 the bailie of the barony of Auchtertyre (Wouchtertiry) was to gather the amercements and escheats of the courts on behalf of the monastery of Strathfillan and to apply them to his own use (ad usus suos applicandi).² In 1543 the earl of Cassilis, as bailie of the abbey of Glenluce, was the "unlawis amerciamentis and eschaetis of the saidis courtis to gathir uplift and inbryng to his awin utilite and profett".³ Only in the case of the abbey of Inchcolm was any bailie-fee granted, and in that instance it was merely ten merks per annum, which by the 1540s was scarcely a princely sum. The assignment to these bailies of the profits of justice may well have been in addition to, or in place of, any bailie fee. This was certainly the case at the barony of Torry which belonged to the abbey of Arbroath where in 1527 the unique "division of spoils" was employed. In this instance the bailies were empowered to collect the fines of the court and to apply one half to their own use and one half to that of the abbot.⁴ This may

1. Inchcolm, no. LVIII.

2. R.M.S., III, no. 2993; S.R.O., R.M.S.: C2/29, fo. 202.

3. S.R.O., Ailsa: GD25/1/451.

4. Arbroath, II, no. 646.

well have been a ploy on the part of the abbey to cut losses. By granting freely and legally one half of the profits to the bailies, they possibly hoped to ensure that the other half from this distant and detached barony would actually reach their hands.

But most conclusive of all were the terms outlined in the grant of the bailiary of the bishopric of Aberdeen to George, earl of Huntly, about the year 1549. There the bailie was empowered "unlawis eschetis and amerciamentis of courtis to lyft, rays, uptak and inbryng to the propir use utilite and profyte of the said erle, his airis and successouris for his and thair labouris and service in the executioun and using of our said office of bailzerie".¹ Clearly the profits of the courts were to be granted to the bailie in return for the performance of his duties. These revenues would be considerably more substantial than any of the bailie fees thus far discovered.

The specific grant of the profits of justice to the bailie was uncommon, doubtless because they were too important a source of revenue to be alienated. Those instances where such alienation did take place were all relatively late chronologically, coming at a time when the position of the Church was considerably weakened. Only in the case of the Aberdeen grant was it hereditary, so in theory at least, the terms could be altered on the expiry of the present lease. The Aberdeen grant was, in fact, unusual in the extent to which the Church was subservient to the bailie. In all probability this was largely due to the over-whelming influence of the family of Huntly in the north-east of Scotland and to the fact

1. Aberdeen, II, pp. 306-10.

that the terms of the grant were negotiated by two members of that family, George, earl of Huntly, and his brother, William, the bishop of the diocese. The influences of the kin relationship could be over-riding.

It is difficult to gauge the extent to which the bailie might cream off some of the profits of justice. Such speculation would, by its very nature, leave little or no written traces and those afflicted by it were seldom in a position to give vent to their wrath on paper. The sources in Scotland tend to remain silent on the subject. However, one means of gaining some insight into those practices which were detrimental to the Church, is by examining the clauses of certain of the "obligations" which the bailies made with their prospective employers. Though only four of these documents have come to light, the vices which they sought to curb were probably evident all over Scotland.

In three of these stipulations were made with regard to the collection of the legal dues. In 1521 Hugh Campbell of Loudoun, as bailie of the lands of Kylesmuir and Barmuir for the abbey of Melrose, promised that he would not raise or uplift the bloodwites, amercements, unlaws and other exactions of the courts without the licence of the abbot and convent.¹ Three years later in 1524 Walter Scott of Buccleuch, as principal bailie of the abbey of Melrose, similarly promised that the unlaws, amercements and bloodwites of the lands of the abbey would not be uplifted save with the consent of the abbot and convent² and finally in 1539 James Ogilvy of

1. Melrose, II, no. 598.

2. Buccleuch, pp. 135-6, no. 127.

Airlie, as bailie of the abbey of Coupar-Angus, gave his word that no amercements or unlaws would be taken from the bailie courts, save what the abbot ordained for the "use and utility" of the monastery.¹ The special restrictions placed upon the handling of these revenues by the Church would lead to the belief that manipulation of these was a serious source of speculation.

Another important source of financial gain to the bailie was the estate dues over which, on occasion, he exercised some control. With the general decline in respect for the Church in the later middle ages, the clergy found it increasingly more difficult to raise the revenues from their estates and churches. Admittedly the populace were generally more willing to pay the estate dues for which they could see some tangible benefit, but reluctance to pay the spiritual dues, among them the teinds, became evident. This is well illustrated by the extent to which the collection of teinds was farmed out to laymen by the Church in the fifteenth and sixteenth centuries.² On occasion the bailie was empowered to gather both types of revenues. In 1473 Walter Ker of Cessford was appointed bailie and justiciar of all the lands, possessions and rents of the abbey of Kelso. In addition he was appointed "administrator of the profits" of the abbey.³ In 1492 Alexander Home was appointed bailie of all the lands, annuals and revenues of the priory of Coldingham.⁴ In 1523 James Ogilvy of Airlie was appointed bailie of the abbey of

1. S.R.O., Airlie: GD16/25/76/1.

2. See for example Arbroath, II, nos. 252, 256, 263, 264, 265, 268, 269, 271, 280, 296; Prot. Bk. Johnstoun, nos. 165, 167; Holyrood, app. II, no. 35; Crossraguel, nos. 50, 56.

3. Register of Supplications, vol. 691, fo. 293 recto.

4. R.M.S., II, 1093.

Coupar-Angus under a similar remit,¹ as was the king himself to the abbey of Melrose in 1535.² Finally in 1544 Laurence, Lord Oliphant, was appointed bailie of all the lands, possessions, fruits, revenues and emoluments of the abbey of Inchaffray.³ On 20 June 1510 the prior and convent of Inchaffray Abbey asked John, Lord Oliphant, to compel Andrew Oliphant, his cousin, to pay the annual rents of Pitcairns which he owed the abbey.⁴ Possibly it was hoped that Lord Oliphant would have influence with his cousin, but more probably Oliphant as bailie was being called upon to fulfil the duties of the office. Moreover, as was seen previously, the bailie often held also the office of chamberlain of the ecclesiastical estate.⁵ Relatively common, therefore, was the injunction that the bailie should aid in the gathering of the revenues of the estates.

In 1484 the bailies of the abbey of Melrose were enjoined the "the malis and fermys of thame (the lands) to the profit and utilite of owr Abbay to inbryng".⁶ In January 1499/1500 the bailies of Pluscarden were ordered to request and to reserve the mails of the lands, and to bring them to the prior.⁷ In 1516 Gilbert, earl of Cassilis, as bailie of the bishopric of Galloway, had to gather in the mails profits and duties of the lands to the "utility and profit" of the see.⁸ In 1519 the Scotts, as bailies of the abbey of Melrose, were again enjoined the "malis gersummys and otheris...deweteis to lift, raise and to the utilite of ws and our place to inbryng".⁹ In

1. Coupar Chrs., II, no. CLXVII.

2. S.R.O., Register House Charters: RH6/1107.

3. Oliphant, pp. 67-70, no. 119.

4. Ibid., p. 50, no. 108.

5. Above, pp. 65-6.

6. Buccleuch, II, pp. 82-3, no. 84.

7. Pluscardyn, pp. 235-6.

8. S.R.O., Ailsa: GD25/1/239.

9. Buccleuch, II, pp. 133-4, no. 126.

1523 the Ogilvies, bailies of the abbey of Coupar-Angus, were likewise ordered to gather in the annuals, farms, gressumes and duties of the lands to the "utility and profit" of the abbey.¹ The bailies of the barony of Torry outside Aberdeen were in 1527 empowered to collect the rents of the lands.² In 1535 the mails, farms, profits and duties of the lands of Melrose were to be taken up yearly by the deputes of the king, as bailie, "after the ferme of our rentale zeirle" and payment was to be made to the abbey.³ In 1538 the bailies of the abbey of Inchcolm had a slightly different, and again lucrative, agreement with the abbey. In this instance, the bailies, it was stated, were to "inbring and causs ws have gud and thankfull payment of all our males annuellis rentis and profittis of our saidis landis zeirle and termly...on thair expenss".⁴ These last three words would appear to indicate that the bailies were responsible only for the payment of an agreed lump-sum, and would recompense themselves by gathering in the dues. It would appear, in fact, that the estate duties of the abbey had been farmed out to the bailie. In any system of farming of offices or dues the possibilities for peculation at the expense of the tenantry were great.

In every instance, save one, where the collection of the estate dues was incumbent upon the bailie, it was specifically stated that these dues should be released to the monastic administration, though once again it is to be suspected that the control of the bailie over

1. Coupar Chrs., II, no. CLXVII.

2. Arbroath, II, no. 646.

3. S.R.O., Register House Charters: RH6/1107.

4. Inchcolm, no. LVIII.

the collection was a potential source of peculation. The terms of the "obligations" which have already been mentioned appear to confirm this. In 1539 Ogilvy of Airlie, as bailie of the abbey of Coupar-Angus, promised that the mails and farms would be paid to the abbey after the form of the rentals,¹ while in 1545 Lord Sempill and his son, as bailies of the abbey of Paisley, promised that they would not "wptak nor withald malis dewiteis firmis nor cayne foullis pertenand the conventis assignatioun, bot allanerlie the inbringin to the profit of thame".² The bailie might also enjoy some of the benefits of the fruits of the land. The bailie of the abbey of Melrose, for example, was enjoined never to "tak, waist or destroy ther woddis, quarrellis or fiche ther wateris, bot with ther special licence and faworis" and to compel his men and friends also to observe this stipulation.³ It is probable that previous bailies of the abbey had been denuding the estates of timber, a highly precious commodity, and savouring the delights of fresh fish, a delicacy indeed on feast-days and in winter. The possibility of securing a proportion of the revenues of an ecclesiastical estate must have been a considerable attraction to the lay nobleman.

Remaining in the realm of estates and lands, occasionally the power to set ecclesiastical lands was afforded the bailie. The potential in the possession of such a power may well be imagined. It has already been seen that the alienation of ecclesiastical property, except under extenuating circumstances, was forbidden by canon law.⁴ That this power should in any way be granted to laymen

1. S.R.O., Airlie: GD16/25/76/1.

2. Paisley, app. III.

3. Buccleuch, II, pp. 135-6, no. 127.

4. Above, pp. 221-2.

is therefore astounding. In general the faculty was conferred only when the consent of the abbot and convent was forthcoming but on a number of occasions this remained unspecified.

In the formulary grant of the office of bailie, contained in the chartulary of the abbey of Kelso and dating from the years 1435x64, the bailie was empowered to set the farms of the abbey but only with the counsel and consent of the abbot.¹ In 1442 the bailie of the Priory of Coldingham was granted the power to set lands with the consent of the prior of the cell and to levy the feus from them.² From 1470 the Oliphants, as bailies of the nunnery of Elcho, might set the farms of the tenants but solely "ex mandato nostro".³ In 1484 the bailie of the abbey of Melrose was empowered "the lands to set with our consell and awis".⁴ In 1521 the bailies of the same abbey promised to "supple and maintain" the abbot and convent in "settin and rasin of the foresayd landis and inputtin and outputtin of tenandis".⁵ In 1523 the bailie of the abbey of Coupar-Angus was empowered to set lands and to *grant* feus, but only "to the utility of the monastery", while in 1527 the bailies of the barony of Torry in Aberdeenshire were permitted to grant leases.⁶ In 1538 the bailies of the abbey of Inchcolm were empowered to set at feu-ferme, apparently without restriction,⁷ while three years earlier in 1535 by the grant of the bailiary of the abbey of Melrose to the king, the bailie was empowered to set and raise the lands and move tenants

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1. Kelso, II, no. 549.
 2. Coldingham Chrs., no. DLXIV.
 3. Oliphant, pp. 16-17, no. 28.
 4. Buccleuch, II, pp. 82-3, no. 84.
 5. Melrose, II, no. 598.
 6. Arbroath, II, no. 646.
 7. Inchcolm, no. LVIII.

as "thai (the bailies depute) sall think maist expedient to our... proffait".¹ This power was, of course, vested in the deutes as the office was held by the king as a sinecure.

Potentially this was an exceptionally dangerous grant for the abbey. Admittedly, it had been specified that the bailies-depute were to be appointed "providing all wais that the saidis deputis be ane of our awin houshald, men or tenentis of the said abbat as sall pleiss us (the abbot) and our successors for the tyme...and na uther to be fortifyt be his grace in ministracioun of iustice for the wele of the said place", but this would not free the abbey from royal dominance, as it is to be suspected that in any case men pleasing to the king would be provided to these offices. Given that the bastard son of King James was soon to be provided to the commendatorship of the abbey,² there would be no difficulty in securing consent to any appointment. This taken in accord with the provision granting powers of leasing of lands would give the king a virtual free hand in the abbey. In almost every way the abbey of Melrose had become little less than an extension of the royal estates.

But potentially the most astounding of all was the stipulation contained in the grant of the bailiary of the abbey of Coldingham in 1465.³ Unfortunately, this document is known only through its calendar and the original has not been examined but to judge by the English text of the document, the powers afforded the bailie were

1. S.R.O., Register House Charters: RH6/1107.

2. The first evidence that the royal bastard, James Stewart, was to be provided to the commend of Melrose is a letter of James V, dated 3 July, 1541. (The Letters of James V, ed. R.K. Hannay and D. Hay, p. 425) Stewart was in possession of the commend by 6 November 1541 at the latest. (Ibid., p. 433).

3. Register of Supplications, vol. 630, fo. 330 verso.

extraordinary. According to the calendar the bailie was granted "full and free power of leasing certain rents and possessions of the monastery in the said bailiary", with no apparent restriction being placed upon him. If this were the case he could presumably alienate the lands of the abbey freely to himself, his kinsmen or clients. The actual feu-duty would doubtless go to the abbey but the point of importance was that apparently the bailie might determine to whom the grant was to be made and how many would be made. As the grant was hereditary, his dispositions could not normally be reversed. This was a wide-ranging, potentially dangerous and possibly unlikely concession. Yet, given the peculiar situation of the priory, such terms were feasible. The monastery was sited in the heart of Home country and both bailiary and benefice were held by members of that family.¹ The priory of Coldingham had become virtually a family appanage.²

In most instances, however, as has been seen, these rights of leasing were to be controlled in theory at least by the clergy. This need not have hindered greatly the alienation of lands and revenues to the followers of the bailie, as it is doubtful if the clergy would often stand in his way. Indeed, as has been seen, on occasion the bailie and benefice holder were closely related kinsmen pursuing a common family policy.³ The concession of any power at all over alienation of lands and revenues to the bailie was potentially dangerous, and was doubtless recognised as such by the Church. But the Church at that time required protection and the inclusion of such

1. Above, pp. 154-5.

2. See Appendix I.

3. Above, pp. 154-8.

terms in these grants may quite simply have been the price which it had to pay.

That illicit feuing was a vice is clear from the "obligations" already mentioned. In 1524 the bailie of Melrose promised that he would "never nowther attempt nor usurp to rais nor to set ony landis less or mar belangand the said abbay",¹ while in 1539 the bailie of the abbey of Coupar-Angus promised that he would not set feus or tacks of the abbey.² Indeed, one clear example of this has come to light. In March 1464/65 Patrick, bishop of Brechin, on behalf of himself and his church, took to court Walter Dempster of Auchterless and his mother, Elizabeth, "tueching the wrangwis wythhalding occupatioun manuring and setting of the landis of Ardach, Aldecat, Botheris ande Netherpetforth with the pertinentis...analyet and set again the forme of law fra his said kirk". For this and the unlawful retention of the office of bailie, the Dempsters lost both lands and office.³

Some attempt should be made to determine the extent to which the bailies were able to set lands to their kinsmen and friends. Such a project is of course fraught with difficulties. Men might be close kin but possess different surnames, while others might be allied or tied to the bailie in some hidden way. All that may safely be undertaken is a consideration of the problem by surname alone. Conclusions are, therefore, tentative. In addition lands might be feued or tacked for a number of different reasons. The lands might

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1. Buccleuch, II, pp. 135-6, no. 127.
 2. S.R.O., Airlie: GD16/26/71/1.
 3. Brechin, II, no. LVIII.

already have been held by a particular person, or he might be a powerful neighbour. As has been seen, most of the bailies were neighbours of the estates over which they held powers of bailiary. The absolute cause of any particular feu or tack cannot ever be fully discovered.

A fairly detailed examination of the land-granting patterns in the two neighbouring bailiaries of Arbroath and Coupar-Angus Abbeys in the years 1450-1542, which were held by the family of Ogilvy of Airlie, has been undertaken. As regards the abbey of Arbroath, the extent of assedations to the family of Ogilvy may be roughly determined by an examination of the register of the abbey. Between the years 1450¹ and 1536,² four hundred and seventy four grants and assedations of lands and revenues were made by the community. Of these some thirty-nine were made to Ogilvies or their spouses. Over-all, therefore, approximately eight per cent of the grants were made to the family of Ogilvy. But the position of the Ogilvies appears yet stronger if only the years between 1508³ and 1536⁴ are considered. In this instance of the two hundred and seventy six grants which were made, thirty one went to Ogilvies. Some thirteen per cent of the total was to be held by Ogilvies. This is no mean amount of the whole leased and feued by the abbey when it is realised that many other grants may have been made, due to Ogilvy influence, to kinsmen who did not bear the name of Ogilvy or to clients of the family and that it was general monastic policy to re-grant to sitting tenants.⁵

1. Arbroath, II, no. 90.

2. Ibid., no. 839.

3. Ibid., no. 463.

4. Ibid., no. 839.

5. M.H.B. Sanderson, 'Kirkmen and their Tenants in the Era of the Reformation', Records of the Scottish Church History Society, XVIII (1974), pp. 40-1.

The information concerning the assedations and grants of the abbey of Coupar-Angus is not as clear-cut for these purposes as that of Arbroath. There does survive the "Registrum Assedationum" of the abbey for the years 1443-1538, which records some nine hundred and eight assedations datable to the period under consideration but of these only four can be directly associated with the family of Ogilvy.¹ Possibly this was due to the factor already noted,² that the Ogilvies were not as strongly entrenched in this abbey as in Arbroath. But in the period of consolidation of Ogilvy power in the monastery from 1539 onwards, it is likely that the situation changed somewhat. From the register of tacks 1539-59,³ and one other reference,⁴ a list of tacks from 1539-42 has been compiled. Of the eighteen in this period no less than three went to Ogilvies, including the grant which was part of the bailie fee,⁵ giving a percentage of seventeen per cent of the total. Certainly these figures are unreliable for being taken over such a short period, but they may indicate a new trend in monastic policy.

Concrete conclusions may only be drawn with peril from the above figures, but they do tend to indicate that benefit in the form of land grants could accrue to the family of the bailie and it is to be suspected that with the rise in the number of grants made in feu-ferme, a significant proportion of these would go to the family of Ogilvy.⁶

1. Coupar Rental, I, p. 285, no. 607; p. 314, no. 949; p. 316, no. 952; p. 316, no. 963.

2. Above, p. 250.

3. Coupar Rental, II, pp. 1-180.

4. Coupar Chrs., II, no. CLXXXVII.

5. Ibid., no. CLXXIV.

6. In fact from the records available it appears that the family of Ogilvy secured nine grants of lands in feu-ferme, four of which were pre-Reformation, from the abbey of Arbroath and eight grants, seven of which were pre-Reformation, from the abbey of Coupar-Angus. (M.H.B. Sanderson, *The Social and Economic Implications of the Feuing of Ecclesiastical Property in Scotland in the late fifteenth and sixteenth centuries*, III, pp. 608-707, app. 2).

An examination of the feuing patterns of the Scottish ecclesiastical institutions¹ also yields valuable information on the extent to which lands were feued to members of the bailies' families.

Most bailies do appear to have succeeded in securing feus of lands of the estates over which they held rights of bailiary, either for themselves or for their kinsmen, to a greater or lesser degree. The Kinnears of that Ilk, as bailies of the abbey of Balmerino, gained three feus of abbey lands, one before and two after the Reformation. The Homes, who dominated the priory of Coldingham, secured six pre- and three post-Reformation grants. At the abbey of Dryburgh the same family secured two and at the nunnery of Eccles they secured one feu. The family of Maxwell gained much from their bailiaries. At the abbeys of Dundrennan, Holywood and Sweetheart they secured two, ten and five grants of land in feu-ferme respectively and at the collegiate church of Lincluden two, making a grand total of nineteen feus. Likewise the Kennedys in the south-west benefited from their offices. At the abbey of Glenluce that family secured one, on the lands of the bishopric of Galloway one, and at the abbey of Crossraguel nine feus of ecclesiastical lands. On the lands of the abbey of Kelso the family of Ker secured no less than seven feus, while in the north-east the family of Dunbar gained seven feus from the priory of Pluscarden. Most intriguing was the performance of the minor Fife family of Stewart of Rosyth who were bailies of the abbey of Inchcolm. They managed to secure for themselves in the pre-Reformation period no less than seven

1. I am indebted to Dr. M.H.B. Sanderson for allowing me to use the table of feuars of kirklands from her own thesis. (M.H.B. Sanderson, *The Social and Economic Implications of the Feuing of Ecclesiastical Property in Scotland in the late fifteenth and sixteenth centuries*, III, pp. 608-707, app. 2).

feus of land. The inordinately strong hold of that family on the abbey of Inchcolm has already been noted,¹ and this further information seems to confirm what has been stated.

Otherwise, most bailies appear to have managed, sooner or later, to secure some feus for their families. At the abbey of Culross the family of Blackadder of Tulliallan secured two feus, some fifty years after Patrick Blackadder had been forced to renounce the office of bailie to the earl of Argyll. The office of bailie-depute had, in all probability, been retained in the family.² At the abbey of Inchaffray, an Oliphant gained one feu. At the abbey of Inchmahome, the Erskines gained two, at the abbey of Jedburgh the Kers of Farniehurst one, at Kilwinning the Montgomeries of Eglinton secured four, and at the abbey of Paisley the family of Sempill gained three feus. At the abbey of Kinloss a Grant of Freuchie gained one, and at the abbey of Melrose the family of Scott won four feus. Both the bailial families of the Fife priory of Pittenweem succeeded in winning some lands. The Dischingtons of Ardross gained two feus, while at a slightly later period the family of Scott gained three. Three of the late fifteenth century bailial families of Scone abbey secured feus though at a considerably later date in the following century. The Blairs of Balthayock won three, the Rattrays of Rattray three and the Abercrombies of Inverpeffray four feus respectively. The situation was much the same in the realm of the female ecclesiastics as has already been noted with the nunnery of Eccles. At the nunnery of Haddington the family of Hepburn secured three feus.

1. Above, p. 294, 289.

2. See Appendix I.

In the sphere of the secular clergy a similar pattern may be discerned. The family of Learmonth of Dairsie the principal bailies of the archbishopric of St. Andrews for the greater part of the sixteenth century, won six feus in the second third of that period. The family of Betoun, who held both archbishopric and bailiary for a considerable period in the second quarter of the sixteenth century, secured only three feus, while the bailies of the detached estates of Ellon, Bishop and Muckartshires and Stow, the Cheynes of Esslemont, the Douglasses of Lochleven and John, Lord Borthwick, each secured a single feu in their own bailiaries. But most striking of all in the case of bishoprics was that of Aberdeen where the family of Gordon, on securing the bailiary of the see and having a member of the family as bishop from the years 1545-77,¹ won no fewer than ten feus in the second third of the sixteenth century.

The above statistics, though they are far from conclusive, do tend to show that the bailie did benefit from his office by securing for himself and his kinsmen, grants of land in hereditary tenure. Possibly, in many instances these grants would have been made even if a member of that family had not held the bailiary, but possession of the office must have made their acquisition considerably more probable. However, given the above evidence, it is extremely unlikely that the possibility of securing control of the estates of the Church was not one of the principal attractions of the office of bailie to the nobility of the realm.

As has been seen throughout the thesis the two abbeys which

1. Watt, Fasti, p. 4.

tended to be exceptions to the general rule, were again in this instance exceptions. These were, of course, the abbeys of Dunfermline and Holyrood. These abbeys never employed members of a single family for a sufficiently long period for them to secure any proprietorial hold over their estates,¹ though some of them did succeed in gaining one or two feus. No bailie of Dunfermline Abbey up to 1542 appears to have gained any feu of lands, save William Prestoun of Craigmillar who did succeed in securing a single one in the lands of Musselburgh over which he held rights of bailiary on behalf of the abbey. The situation was similar at the abbey of Holyrood. The Monepennys of Pilrig managed to secure two feus and a member of the Kincaid family secured one but considering the large number of bailies whom the abbey employed during the period under consideration, this was not a great concession. In neither instance does it appear that the abbeys felt any obligation to feu to their bailies, nor were their bailies in a position of sufficient strength to force them so to do.

As a logical progression from the grants of land and the possession of jurisdiction over them, came the erection of many ecclesiastical estates into temporal lordships in the post-Reformation period. As one nineteenth-century writer said, "in those times little was the distance from the bailliary to the dominion over church property".² Another more recent commentator has stated that "the obtaining of the bailliary over monastic lands not infrequently proved itself the first step towards obtaining them as a temporal

1. See Appendix I.

2. G. Chalmers, Caledonia, III, p. 162.

lordship on the suppression of the monasteries".¹ While the earliest bailies or their successors could scarcely have foreseen the occasion or the effects of a breach with the Church of Rome, they did have designs upon its lands. Ideas were abroad in Scotland and other countries figuring the nobility as the guardians of the estates of the Church, which the Church had itself so dishonoured. In a letter to the Benedictine and Augustinian orders in 1425, James I called for a reform of religion, and reminded the monks of the munificence of the kings who had previously endowed them. He went on to threaten to remove their endowments "*ne ob vestre incuriam desidie regalis munificencia que olim pro conservacione sui et subditorum salute vestra monasteria priscis temporibus notabiliter dotavit...peniteat se muros marmoreos erexisse*".² It was the ancestors of the late mediaeval nobles who had granted lands so freely in the twelfth and thirteenth centuries, and now their rather more impoverished descendants sought to recover what they considered part of their patrimony. A number of ecclesiastical estates did fall into the hands of the bailies in the post-Reformation period, though this was often only after a protracted struggle with the last pre-Reformation commendator or abbot who sought to gain control of the lands for the benefit of his own family. The situation was further complicated by the political condition of Scotland after the Reformation. "Those twenty-six years, from 1561 to 1587, it is to be remembered, were a period of incessant turmoil in Scotland, and of incessant vicissitude in the shape and personal composition of the Central Government".³ With the rise and fall of

1. Inchcolm, p. 192.

2. A.P.S., II, p. 25, cap. 2.

3. The Register of the Privy Council of Scotland 1625-27, ed. D. Masson, p. cxviii.

different factions, Church lands could be won and lost. There was no guarantee that the bailie might retain possession of his bailiary. Loss might be due to factors outwith his control.

A number of ecclesiastical estates did, however, become secular lordships in the hands of their bailies. As ever it was the family of Home which was to the fore. In parliament in 1606¹ and by charter in 1610² the priory of Coldingham was erected into a temporal lordship for Alexander, Lord Home, while in 1609 the lands of the nunnery of Eccles were erected into a temporal lordship for Sir George Home.³ Another branch of the Home family secured possession of the estates of the nunnery of North Berwick. On 20 March 1587/8 Alexander Hume of North Berwick was granted the property of the nunnery, and this was erected into a free barony.⁴ The family of Erskine benefitted from their possession of the bailiary of the abbey of Inchmahome when the lands of that priory were erected, along with those of Dryburgh and Cambuskenneth, into a temporal lordship for John, second earl of Mar, in 1606.⁵ The Kers of Cessford found that their investment in the bailiary of the abbey of Kelso had finally matured when the lands of that abbey were erected into a temporal lordship for Robert, earl of Roxburgh, in 1607.⁶ The Fife baronial family of Stewart of Rosyth managed, by means of their ecclesiastical bailiary, to reach the peerage. In parliament in

1. A.P.S., IV, p. 360, cap. 101.

2. R.M.S., VII, 290.

3. H.M.C. Rept., XII, pt. 8 (Home), pp. 131-2, no. 146.

4. R.M.S., V, 1492.

5. A.P.S., IV, p. 343.

6. Ibid., pp. 399-400.

1609¹ and by charter in 1611² the lands of the abbey of Inchcolm were erected into a temporal lordship for Henry Stewart as Lord St. Colm. In 1592 the abbey lands of Kilwinning were erected into a lordship for William Melville, but from him they passed into the hands of the family of the bailie in the person of the earl of Eglinton, who obtained undisputed possession of them by charter in 1615.³

The evidence with regard to other ecclesiastical bailiaries is not so clear. The Sempills, the bailies of the abbey of Paisley, did not aid that monastery at the Reformation in the hope of gaining spoils.⁴ The Regent Moray granted all church property to Lord Sempill but the lands were eventually erected into a temporal lordship for Claud Hamilton in 1587.⁵ Robert Sempill of Glasford was, however, still hereditary bailie of the abbey lands in 1648.⁶ In February 1561/2 Thomas Hay, commendator of the abbey of Glenluce, leased the whole property and the revenues of the monastery to the earl of Cassilis for a considerably undervalued price.⁷ In 1605 John, Lord Maxwell, was still bailie of the lands of the abbey of Holywood, receiving sasine of the office in that year.⁸ Prior to the Reformation the lairds of Wemyss had acted as bailies of the nunnery of Elcho. In repayment for their services they had been leased certain lands of the nunnery which later became the property

1. A.P.S., IV, p. 464.

2. R.M.S., VII, no. 442.

3. The Register of the Privy Council of Scotland 1625-27, ed. D. Masson, p. cxlv.

4. J.C. Lees, The Abbey of Paisley, p. 197.

5. R.M.S., V, nos. 1320, 2070.

6. Inquisitionum ad capellam domini regis retornatarum quae in publicis archivis Scotiae adhuc servantur, abbreviatio, I, Ayr, no. 417.

7. G. Chalmers, Caledonia, V, p. 421.

8. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 74, no. 176.

of the Wemyss family. These were added to the barony of Wemyss in a renewed charter of barony by Charles I in 1632.¹ The family of Forbes appear to have managed to retain a hold over the estates of the priory of Monymusk for which they were the bailies. In 1608 a member of that family, William Forbes, had adopted the title "of Monymusk".² In the first quarter of the seventeenth century Walter Scott, earl of Buccleuch, whose forefathers had been bailies of the monastery of Melrose had considerable grants of the lands of the abbey and the patronage of a large number of churches. At the beginning of the eighteenth century his descendants bought the rest of the abbey lands, which are still part of the possessions of that family.³

"The connexion between the monasteries and the local gentry was perhaps even more important. The connexion in the case of knights, esquires and simple gentlemen was not so extensive as in that of the influential peers, but precisely because it was so limited it became stronger and more intimate. The local people were able to give more time to the monastery, they came to know the monastic household intimately and took a very important position in monastic circles".⁴ So wrote a historian of the contemporary English scene. The situation was much the same in Scotland. In many ways it was the class of lairds who, as has been seen, were generally appointed bailies of the detached baronies who gained even more from the office than did their more powerful and wealthy social superiors. They tended to have immediate local influence, they occupied lands and

1. Wemyss, I, p. XXIV.

2. R.M.S., VI, 2122.

3. J. Morton, The Monastic Annals of Teviotdale, pp. 246-7.

4. A. Savine, English Monasteries on the Eve of the Dissolution, p. 256.

administered them in person in close proximity to the ecclesiastical bailiary over which they were set and they could devote time to the administration of, and make personal appearances in, these bailiaries. Often the detached lands lay far from the principal land-holding centres of an abbey or bishopric¹ and consequently the abbot or bishop would be remote personages to the tenantry. The bailies would be the figures associated in the minds of the latter with the running of the estates and loyalty would tend to centre on them rather than on the abbots. Again, these lairds tended to be less affected by the great political upsets of the late sixteenth century and maintained their positions with relative ease. When, therefore, these lands came to be secularised in the post-Reformation period, many of the lairds succeeded in retaining a fairly firm grasp on them.

This was the case with the barony of Lesmahagow which belonged to the abbey of Kelso. The bailiary of that estate had lain in the family of Hamilton for more than a century before the Reformation.² In 1623 it was erected into a temporal lordship for the Marquis of Hamilton.³ The Ayrshire lands of the abbey of Melrose, those of Kylesmuir and Barmuir, had as their bailies from 1521 onwards the family of Campbell of Loudoun.⁴ In 1606 the lands of Kylesmuir were erected into a temporal lordship for Lord Loudoun.⁵

In a slightly different position were the detached estates of the bishoprics, for unlike the monasteries, after the Reformation ultimate dissolution was not planned for them. However, it is clear

1. Above, pp. 106-8, 109.

2. See Appendix I.

3. The Register of the Privy Council of Scotland 1625-27, ed. D. Masson, p. cxlv.

4. Melrose, II, no. 598.

5. A.P.S., IV, p. 323, cap. 70.

that in a number of instances the families of the pre-Reformation bailies were able to retain possession of the lands or at least part of them in the post-Reformation period. This was the case with the lands of the barony of Tynninghame, which belonged to the archbishopric of St. Andrews as indeed did all those for which information has been forthcoming. At the close of the sixteenth century the Lauders who had been bailies of the lands since the 1540s still retained close ties.¹ The bailiary of Bishopshire was still in the hands of the Douglas family in 1594,² while the barony of Stow was still in the possession of the family of Borthwick in 1669.³

It is not the purpose of this thesis to trace the development of pre- and post-Reformation land-holding patterns. These were complicated and as has been indicated, were affected by a multiplicity of factors. But there is sufficient evidence to point to the fact that possession of an ecclesiastical bailiary was one possible means whereby church lands might be secularised into the hands of the Scottish nobility in the post-Reformation era. It must be remembered also that although a bailie's family might not secure the erection of a temporal lordship after the Reformation, they would still retain possession of the lands which had been alienated to them thanks to their position as bailies. The lure of lands must have been one of the principal attractions of the office to the late mediaeval lay nobility of Scotland.

Apart from the revenues of justice and of the estates, the

1. R.M.S., VI, 688.

2. Ibid., 200.

3. A.P.S., VII, p. 568, cap. 21.

bailies were also, on occasion, empowered to control other revenues of the abbey and financial aspects of the monastic administration. In 1473 Walter Ker of Cessford, as bailie and justiciar of the abbey of Kelso, was given jurisdiction over all the lands rents and possessions of the abbey in the sheriffdoms of Roxburgh, Berwick and Edinburgh and elsewhere with the additional function of being "administrator of profits".¹ The precise implications of this latter office are unclear, but the potentialities of putting a layman in charge of ecclesiastical finances as may be imagined were considerable. The potentialities would be even greater where the office of chamberlain was also granted. The possibilities for peculation and illegal raising of dues were great. This is well illustrated by the words of certain commentators concerning the possession of the bailiary of the abbey of Arbroath in the mid-fifteenth century by Alexander Lindsay. One maintained that Lindsay "purposeit to haif spulyeit the abbay,"² while another claimed that "he with his numerous attendants became too expensive to the monastery".³ The restrictions placed upon certain bailies is a further indication of this.

In the grant of the bailiary of the abbey of Holywood to Robert, Lord Maxwell, in 1522, the abbot and convent specifically reserved for themselves and their successors the teind sheaves, multures of grain and all other teinds and mortuaries,⁴ while in the grant of the bailiary of the abbey of Kilwinning in 1540 ariage and cariage were

1. Register of Supplications, vol. 691, fo. 293 recto.

2. J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, p. 18.

3. G. Buchanan, The History of Scotland, translated J. Aikman, II, p. 136.

4. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170.

reserved to the abbey as long as they did not detract from the authority of the bailie.¹ More insight into the methods of financial exploitation of the bailie may be gained from the "obligations" already cited. In 1521 Hugh Campbell of Loudoun, as bailie of the lands of Kylesmuir, promised that he would neither hurt, harry nor charge the lands with any "tailzeis, taxis, extentis, cariagis nor dew service...withtout speciall lycence...of the said reverend fader and convent".² In 1519 the bailie of Melrose promised that he would not raise nor exercise any new custom or service on the abbey tenants, inhabitants or servants save what previous bailies had raised, and that he would raise no ariages nor cariages.³ In 1539 the bailie of Coupar-Angus promised that no sums such as ariage and cariage would be levied,⁴ as also did the bailies of the abbey of Paisley in 1545.⁵ The possibilities of raising these financial benefits must have aroused the greed of the lay nobility.

Much of the effort spent in determining the means by which the bailie might reap profit from his office must, through lack of information, be reasoned conjecture. The more concrete attractions of land grants and finances have been examined above, but one more elusive attraction of the office must have been that immeasurable benefit, a general increase in the "authority" of the bailie. It was recently written of the knight's court of the barony of Alnwick in the north of England, that it was "both the symbol and organising centre of seigneurial authority".⁶ These words might equally well be applied to the court of the bailie in Scotland in the late mediaeval period.

1. R.M.S., III, 3030.

2. Melrose, II, no. 598.

3. Buccleuch, II, pp. 135-6, no. 127.

4. S.R.O., Airlie: GD16/25/76/1.

5. Paisley, app. III.

6. M.E. James, 'The Concept of Order in the Northern Rising of 1569', Past and Present, LX (1973), pp. 72-3.

As has already been noted,¹ jurisdiction in Scotland was highly devolved. In theory the king had granted rights of jurisdiction to a greater or lesser degree to the holders of baronies and regalities with powers of independent action. So important were powers of jurisdiction in Scotland that this was held separately from the land over which it was exercised.² In the mediaeval world power came with jurisdiction. The bailie and regality courts of the ecclesiastical estates were often the only source of law and justice for the tenants of the lands. At the head of these courts stood the bailie who must gradually have come to supersede the ecclesiastical landlord as the supreme power in the eyes of the inhabitants. It was the bailie, his deputies and officials who administered the only justice the bulk of the tenants knew, and who maintained law and order on the estates. The abbot would tend to become a remote figure, even more so as non-residence became common among Scottish prelates and "authority" would tend to become centred upon the bailie rather than his superior. As has already been noted, this would be even more likely in the case of detached baronies. This increase in power must have added considerably to the prestige of the bailie, both in the ecclesiastical estates over which he exercised rights of bailiary and on his own family estates.

As ever, much would depend upon the relative strength of the

1. Above, pp. 29-30.

2. In Scotland the "barony" was the jurisdiction and not the lands over which the jurisdiction was exercised, though in general they were co-extensive. It was possible for lands to be held by one man and the rights of jurisdiction over them to be held by another. As one authority stated "*baronia est nomen dignitatis et importat iudicaturam et potestatem iurisdictionatem ordinariam*". (Aberdeen, I, p. 152).

ecclesiastical institution involved. In a well-run regality such as those of Dunfermline or Holyrood, the impression is given in the extant documents that the administration remained very much that of the abbots. The courts were held by the bailies but the position of the abbot was never undermined and, of course, in these estates the bailies changed from generation to generation, thereby preventing the intrusion of any single family.¹ No one family held the office for a period of sufficient length to transfer the loyalty of the tenants from the abbot to the bailie. But the attraction of increased authority is illustrated by the earl of Argyll's acquisition in 1495 of the bailiary of the abbey of Culross. In that instance Argyll ousted the present bailie, Patrick Blackadder of Tulliallan, forcing him into the position of bailie-depute with all the functions of that office to perform, though he granted Blackadder in turn the faculty to appoint a depute.² As the day to day administration of the estates remained in the hands of Blackadder, all that Argyll achieved was the acquisition of the title of principal bailie of the abbey. The chief and most immediate attraction of the office must have been the increase in prestige and authority which flowed from it.

Another striking example of the increase in authority which came to the bailie with the acquisition of the office was the wide-ranging grant made by William Gordon, bishop of Aberdeen, to his brother, George, earl of Huntly, about the year 1549. The attraction of the office was quite clear if the stipulations of the following clauses

1. Above pp. 125-8 and Appendix I.

2. S.R.O., Cardross: GD15/153.

are a guide to the situation. The earl and his successors were to have the service of all the tenants and inhabitants of the bishop's lands and shires "in oysting baith within and without this realme to serve hym hys airis and successouris thairintyll and als in thair awin propir actiones and caussis perpetuallie and nane uderis except ws and our successouris in all tymes cumyng".¹ The concession was to be enforced by law if necessary. This would give the earl the military services of all the tenants of the bishop's estates, and add considerably to his own military standing. A similar faculty was granted to Hugh, earl of Eglinton as bailie of the abbey of Kilwinning in 1544.² There were other instances where bailies were put in command of ecclesiastical levies,³ but seldom were they allowed to be used in the interests of the bailie himself, as was the case in the above instances.

In the above examples the increase in authority of the bailie was sanctioned by law, but in most other cases the end result may well have been the same. The longer one particular family held control of a bailiary the more likely it was to acquire rights and powers equivalent to those enjoyed by the earl of Huntly. As the Reformation grew near this was probably the situation on many ecclesiastical estates. The Aberdeen grant may, to a large extent, merely have been recognising a situation which already existed over much of the kingdom. What is clear is that with lands and jurisdiction came authority, and authority was something to be

1. Aberdeen, II, pp. 306-10.

2. The grant stated that "dicti tenentes in omnibus equitationibus exercitibus etc. regine aut principis aut dicti comitis, dicto comite et ejus heredibus et deputatis obedirent sub pena amerciamenti". (R.M.S., III, 3030).

3. Moray, no. 189; R.M.S., II, 142; Coupar Chrs., vol. II, no. CLXXIII; see also above, pp. 41-2.

sought and prized in the late mediaeval world.

Closely allied to the concept of authority was the right of patronage. The importance of the powers of patronage in the mediaeval world have often been underestimated. One historian has put the problem succinctly. "Barring a revolution in agrarian techniques", he said "economic growth is a slow business. A family will have to wait a long time to rise significantly by improvements in draining and ditching, manuring and breeding, and the keeping of accounts. For rapid growth some external impulse is needed...royal patronage was the chief external impulse to social climbing in the twelfth century".¹ These words might well be applied to any class of society at any time. In an economy where much business was done in kind, payment was often made in the form of favours or the grant of sinecures and offices "sik as clerkis, sutouris, seriandis and dempstaris"² which lay in the presentation of the seigneur. A figure who possessed such rights of patronage would attract clients and followers to his camp. Any possible addition to these powers of patronage would, therefore, be keenly sought after. Careful consideration of his actions on the part of the bailie created a mass of debts and obligations to him. As has already been seen, in theory the bailie was granted a varying amount of power to appoint bailies-depute and officials of the courts. Each of these offices had its own perquisites and would be eagerly sought after by those of a lower social stratum. In addition to those offices over which he had direct powers of presentation, with his close connections to

1. R.W. Southern, 'The Place of Henry I in English History', Proceedings of the British Academy, XLVIII (1962), p. 132.

2. Buccleuch, II, p. 134, no. 126.

the monastic administration he would also doubtless influence the choice of estate officials and might secure appointments for his allies. The acquisition of the office of bailie could, therefore, increase greatly the powers of patronage of the recipient and for that reason must have been keenly pursued.

In addition to the favours which the bailie might do for his friends in the realms of patronage, his own favour would often have to be purchased by the tenants. It might be to the benefit of a tenant to purchase the good will of the bailie in any of a thousand ways and for as many reasons. The bailie was the chief legal official of the estates and any man involved in legal action would do well to have his support. It might be advantageous to a tenant to buy off the bailie on his collection of dues from the lands, or he might be persuaded to renew a lease. The bailie had means of forcing compliance in the rights of distraint,¹ and no tenant could afford to ignore this. There is, in fact, evidence of such practices on the part of the bailie contained, as before, in the "obligations" to which a number of bailies were forced to accede.

In 1519 the bailie of the abbey of Melrose promised that neither he, nor any acting in his name would attempt to put in or to remove any of the tenants, inhabitants or servants of the lands, save with the express consent and assent of the abbot and convent.² The bailies of the lands of Kylesmuir and Barmuir, the detached estates belonging to the same abbey, promised that they would neither "hurt herry nor charge the said abbey ther landis nor tenandis witht haldin or fedin of hundis, halkis nor horss".³ The bailies had

1. Above, pp. 285-286, p. 286, note 1.

2. Buccleuch, II, pp. 135-6, no. 127.

3. Melrose, II, no. 598.

presumably been receiving an accommodation and stabling allowance and had been exceeding their limits. Food for man and horse was expensive, and furbishing of this fell heavily on the tenants. The bailies of the abbey of Paisley promised that they would occasion "na molestatioun, inquietatioun, nor trublans to the tenandis within the said bailzery".¹ Finally the bailies of the abbey of Coupar-Angus promised that they would not remove the assedations of the tenants or trouble and molest them by forcing them to go and ride anywhere without the abbot's consent.² In contrast to this latter stipulation the king and his deputes as bailies of the abbey of Melrose in 1535 were empowered to set and raise lands and to move tenants "as thai sall think maist expedient to our...proffait".³ The potentialities of the office were great and restrictions placed upon the bailie varied, but it would appear that the tenants could on occasion suffer at the hands of the not-so-gentle laymen.

There are extant examples of how the tenantry did suffer at the hands of the bailie and how the bailie sought to profit from his office. About the year 1539 the tenants of the abbey of Scone appealed to the Lords of Council, complaining that they were forced to suffer the courts of Patrick, the commendator of the abbey, who uplifted duties, unlawed them and poinded their goods, and also those of Thomas Charteris of Kinfauns, who claimed power as the bailie with the consent of the commendator and convent. The result of this was that the tenants were "double poyndit, callit and unlawit, and thare gudis takin tharfor and hevelie trublit tharthrow". The Lords,

1. Paisley, app. III.

2. S.R.O., Airlie: GD16/25/76/1.

3. S.R.O., Register House Charters: RH6/1107.

however, declared that the tenants should still obey Charteris according to his letter of bailiary until he was lawfully put from the office.¹ In this instance neither commendator nor bailie was prepared to lose revenues at the expense of the other. In consequence, the tenants suffered. In another case a certain Thomas Hird and his spouse complained to the Lords of Council that the bailies of St. Andrews Priory had unlawfully removed them from their tack of half of the New Mill at St. Andrews, which they held "fra V yeiris to V yeiris." The Lords upheld Hird's claims and decided that as he had fulfilled all the necessary conditions for the grant, he was entitled to another five year tack.² It is clear that the tenantry of ecclesiastical estates could be harassed by their bailies and that the favour of the latter was worth purchasing. In either case the bailie gained. What he failed to receive by favour he might take by force.

Another benefit which the bailie would receive from his position was the possibility of advancing his own kinsmen in a multiplicity of ways. This, in fact, would overlap with all those attractions already examined. As has been indicated³ the influence of the kin grouping in Scotland was much stronger than in the rest of "feudal" Europe. A kinsman was expected to stand by his relation and to further his interests in any way which lay within his power. All over mediaeval Europe an office holder was expected to surround himself with kinsmen and friends, in part because these were often the only people whom he could trust. In Scotland this duty had a

1. Acts of Council (Public Affairs), pp. 484-5.

2. Ibid., pp. 492-3.

3. Above, pp. 100-102.

much greater force behind it.

Something has already been seen of the way in which lands, offices and moneys were alienated to kinsmen. The practice was now potentially more dangerous to the Church than it had been in the past as, with the steadily increasing employment of the tenure of feu-ferme, lands were more likely to be alienated hereditarily from the Church. The extent to which feus were granted to the kin of the bailie has already been examined. In every sphere in which the bailie had rights of patronage, it was primarily his kinsmen who benefitted. The ability to further the fortunes of one's family and kin was yet another attraction of the office to the late mediaeval nobleman.

In all the above instances, therefore, to a greater or lesser degree the monastic community renounced control over the functions of the bailie's office, leaving the latter free rein within the prescribed areas of his jurisdiction. In such cases the acquisition of an ecclesiastical bailiary constituted merely an extension of the personal estates of the bailie. One clear, though possibly exaggerated, example of this was the extent to which the abbey of Melrose had by now become little less than a royal appanage. On 30 August 1542 James V, who was bailie of the abbey, issued a most peremptory mandate to his "baillie" (in this instance the man was probably a bailie-depute) of, as the document stated "our abbay of melross" to infest James Hoppringale in certain lands. This was to be done on pain of loss of office. No mention was made of any ecclesiastical sanction and the royal warrant was "subscrivit withtoure hand and under our Signet".¹ The cause of the keenness with

1. Melrose, II, no. 602.

which the office was pursued by the nobility of late mediaeval Scotland may now be appreciated.

Thus far some attempt has been made to describe the potentialities which existed for the bailie to explicit his office, and the economic rewards which could accrue to him have been examined. Gradually, as is often the case where outside protection is secured, the protected came to be dominated by the protector. The official, who had been appointed as an ally and a vassal, grew in power and stature to become the proverbial "over-mighty vassal". Generation by generation, the grip of the bailie's families over their bailiaries tightened, until the original superior was no longer able to control them. Sir Humphrey Neville, the steward or bailiff of Hexham Priory in 1461 has recently been described by one historian as a "captain of freebooters".¹ The process was apparent in Germany in the twelfth century and was mirrored in Scotland in the fifteenth. The securing of the ultimate control of the destiny of a bailiary was yet another attraction to the greedy lay nobleman. The Church leaders recognised the realities of the situation in Scotland as elsewhere and attempted to salvage what they could from a dangerous situation. By reaching some form of legal understanding with the bailie, at least the worst ravages might be avoided. It was certainly preferable to have an over-mighty friend than an over-mighty enemy.

It is, however, clear that the Church did recognise the dangers inherent in the employment of powerful laymen on their estates and did attempt, sometimes successfully, to curb the powers of its lay employees. Success depended upon the relative strength of the

1. R.B. Dobson, Durham Priory 1400-1450, p. 125.

institution involved which, as has been seen, depended essentially upon its geographical location. The bishoprics of Scotland seem to have been less vulnerable, probably because the seat was generally in a burgh with its lands in close proximity and with the protection which that afforded. Again the bishops were more active in the politics of the realm and the secular clergy, corrupt as they undoubtedly were, did still play an important role in the daily life of the people. In contrast the monasteries were moribund, and normally being situated in the country-side, were more vulnerable to the powerful layman. The history of the Scottish monasteries in the fifteenth century was one of gradual retreat before the advances of these neighbours. As has been seen, most ultimately surrendered their freedom of choice by making the bailiary hereditary in one family, an action which in essence marked the victory of the layman.

The Church did, however, make some attempt to restrain the power of its bailies. The formalisation of the agreement between the bailie and the Church was the result of complicated negotiations and in a number of the grants of the office, the clergy did succeed in reserving to themselves certain powers and in restricting the freedom of action of their bailies. In the grant of the feu of the barony of Auchtertyre (Wouchtertiry) in 1542 by the abbot and convent of the monastery of Strathfillan to James Campbell of Lawers with the bailiary of the lands, it was stipulated that should the feu-duty fail to be paid for three consecutive years, the grant would be void and presumably both lands and office would be lost to the grantee (*Proviso quod cessante solutione feodi ad tres terminos continuos, caderent a feodo*).¹ In the grant of the office of bailie of the

1. R.M.S., III, 2993.

bishopric of Glasgow to James, earl of Arran, in 1545 it was stipulated that the grant would become void should the earl infringe it.¹ The terms of the Paisley grant were more explicit and sought to lessen the power and position of the bailies. There it was stated that in the absence of the bailie and outwith the head courts the granitar, cellarer and any other might hold courts anywhere on the abbey lands in the name of the abbot.² This would prevent the establishment of any monopoly on the holding of courts by the bailie. In addition, it was stated in the most forceful Latin, that should the terms of the grant be infringed in any way, or should the bailie or his allies harm the monastery, the infetment would be of no force or effect (*necnon, quod casu absit, quod dicti magister et sui heredes et successores dictum monasterium, nos nostrosque successores tenentes, alios nostros amicos, consanguineos, servos et familiares contra iuris ordinem invaserint, lederint seu quoquomodo perturbaverint, seu in aliquo premissorum contravenerint, volumus quod presens infeodatio nullius sit momenti valoris aut efficacie*).

Another important means of curtailing the power of the bailie and of increasing the manoeuvrability and freedom of the abbey was by restricting the length of tenure of the grant of the office. The process of acquisition of the bailiary was traced in a previous chapter, and there it was pointed out how different types and lengths of tenure affected the security of the bailie. This was by far the most efficient means of retaining some measure of control over the bailie.

1. *H.M.C. Rept.*, XI, pt. 6 (Hamilton), p. 221, no. 161.

2. *Paisley*, app. II.

Another possible method whereby the potential powers of the bailie might be curtailed, was the appointment of more than one bailie of different families to any bailiary. On a number of occasions this did in fact occur. In 1499 three bailies were appointed to the bailiary of the collegiate church of Methven. These were George Moncrieff of Tippermalloch and his son, Robert, and John Tyrie, provost of the church.¹ In 1506 John Rattray of Rattray and Andrew Abercromby of Inverpeffray were created joint bailies of the abbey of Scone.² In 1527 Gilbert Menzies, provost, and William Rolland, bailie of the burgh of Aberdeen, their heirs and assignees were created bailies of the barony of Torry for a period of nineteen years.³ Finally at the abbey of Dunfermline in the 1530s a similar practice was encountered. On 8 May 1533 with no previous indication of the existence of more than one bailie-principal, the historian is confronted with two full bailies, Archibald Betoun of Capildray and James Colville of Wemyss Easter who were termed "ballivos conjunctim et divisim specialiter constitutos", and also "regalitatis prefate ballivos".⁴ On three further occasions the bailies acted together.⁵ The commentator on the court rolls concluded rather tamely that "the association of such an official with the bailie of the regality would tend to suggest a departure from usual procedure in this court".⁶ However, as may be seen from the above examples, this was by no means an isolated instance and may have been due to pressures of work or an

1. Methven, p. 34.

2. H.M.C. Rept., IV (Rattray), p. 536.

3. Arbroath, II, no. 646.

4. Dunfermline Court Bk., no. XXIII.

5. Ibid., nos. XXV, XXIX, XXXIV.

6. Ibid., p. 195.

intention to prevent any significant rise in the power of a single bailie.

But as was noted earlier, the most common means of restricting the power and independence of the bailie was by extracting from the prospective official an "obligation" or bond wherein he promised to perform or not to perform certain acts. In fact, only four such obligations have come to light, but it may well be that all grants of the office, and one might imagine particularly those in fee and heritage, were accompanied by such an undertaking on the part of the bailie. These were always written in the vernacular and for that reason possess much immediate force. They give the impression of being more vital, alive and relevant than the more formal and stylised grants of the office. At the time of their inception, at least, they would have appeared to have carried force. The bailie probably accepted the imposition of such terms for the time being, being content merely to secure the bailiary. Time however was on his side and the restrictions could eventually be removed. Certainly, the Ogilvies of Airlie found the bond which they had concluded with the abbey of Coupar-Angus in 1539¹ sufficiently vexing for them to press for its annulment. This they finally achieved in the period after 1565.²

Some of the terms of these obligations have already been examined as a pointer to the way in which the office of bailie might be employed to exploit the wealth of the Church. At this stage the documents should be considered as attempts of the Church to control its bailies.

1. S.R.O., Airlie: GD16/25/76/1.

2. S.R.O., Airlie: GD16/25/76/2.

The earliest example of such an obligation was that made by Hugh Campbell of Loudoun to the abbey of Melrose in 1521, on his appointment as bailie of the lands of Kylesmuir and Barmuir for a period of nineteen years. In this, Campbell promised to defend the abbot and abbey and their lands and tenants in terms that were "at mair length in thar letters thereupon contenit". He promised to execute his office loyally and truly, and to desist in this neither for "frendschip, kindness, manrent, feid nor favor of na maner of personis nowther of hee nor of law degre". The bond was, moreover, no idle one for pledges of fulfilment were given. Campbell pledged the lands, rents possessions and goods, movable and immovable of himself and his heirs "als weill nemmyt as wnnemmyt" to be removed and sold by the factors of the abbot if the above terms were not strictly followed.¹

The obligation of Ogilvy of Airlie in 1539 was equally wide-ranging. The Ogilvies promised as bailies to be "defendaris be our selfis, freindis or kyn and all utheris that will do for us...in all thair actiounis, pleyis, debaitis, causes, quarrellis" against all save the king. If Ogilvy or any of his heirs should not observe the terms of the grant of the office, the infetment was to be "of nane, avale, force nor effect...and (would) vaik frelie return to the dispositioun of the...venerable father".²

That of Robert, Lord Sempill, and his son made to the abbey of Paisley in 1545 was equally as restrictive to the bailie. The

1. Melrose, II, no. 598.
 2. S.R.O., Airlie: GD16/25/76/1.

Sempills bound themselves and their successors to defend the monastery against all, save the queen, and in similar but more explicit terms than the previous grant, bound themselves to uphold the terms. If they, their heirs or successors should fail to observe any of these points "directe vel indirecte or ony wthir maner of way cumis in the contrary thereof...the said infeftment...salbe tynt and forfaltit in the self for ever". So that this should have more force and effect it was to be entered in the records of the Lords of Council "and the lordis to interpone thair authorite tharto" and in the records of the official of Glasgow.¹

But most wide-ranging of all was the obligation of Walter Scott of Buccleuch to the abbey of Melrose in 1519. The bailie promised to implement and defend any ordinance or constitution of the abbot and convent against all save the king. If he or any of his heirs should break these constitutions, he would renounce all claim to the bailiary. As surety for the observing of these terms he pledged the lands, rents, possessions and goods of his kin to be removed at the will of the abbot and convent.²

In all the above bonds an attempt was made by the Church to control the actions of its bailies, always with the ultimate threat of loss of office and with, on occasion, also the possibility of the seizure as compensation of lands and goods of the bailie. The prelates clearly saw the dangers inherent in the office of bailie, and those in a sufficiently strong position sought to curb them by this means. Ultimately these efforts were doomed to failure. What

1. Paisley, app. III.

2. Buccleuch, II, pp. 135-6, no. 127.

they did possibly achieve was the buying of time, the postponement of the evil hour.

The inclusion of reservations in the actual grants of bailiary and the extraction of obligations from the bailies tend to represent the theory rather than the practice of the means whereby the Church would have liked to control these officials. Evidence, however, is extant of attempts by the Church to protect itself against these men and to preserve its independence. At some time in the period 1507x12 an attempt was made by the abbot of Coupar-Angus to lessen the power of the family of Ogilvy in the abbey due to their position as bailies. Ogilvy complained to the king that the abbot made "impediment and stop to him anent the said office of bailzery", and orders were issued for the abbot to desist.¹ But the most important and detailed of these disputes to come to light was that between the bishop of Brechin and the family of Dempster of Auchterless, bailies of the bishopric. It is impossible to gauge accurately the motives of the bishop in his attempt to oust the Dempsters and doubtless they were tinged with self interest but it is of great importance, insofar as it shows the means whereby the Church could defend itself, and it enables the historian to gauge the effectiveness.

In the mid fifteenth century the office of bailie of the bishopric of Brechin lay with the family of Dempster of Auchterless.² For some reason Bishop George Schoriswood (1454-62)³ attempted to oust them from the office and the first evidence that friction existed came in January 1459/60 when John Schoriswood, the brother of the bishop, and

1. Coupar Rental, II, app. IV, no. 12.

2. Brechin, II, no. XLIII.

3. Watt, Fasti, p. 40.

Mr. David Guthrie of Kincaldrum attempted to hold a chamberlain ayre in the city of Brechin. David Dempster challenged their right to hold the ayre, asserting that he alone was the bailie and chamberlain of the bishop and church and that no other had the power to affirm and hold the ayre save in his name. He further proclaimed himself ready to execute his "office of chawmerlanry efter the tenor of (his) infetment and the power gevyne to (him) tharupon".¹ It does appear that Schoriswood was attempting to oust Dempster from the office and to insinuate a member of his own family. Equally as significant is the fact that the bailie felt himself to be in a position to retaliate. He claimed that he alone, or someone acting in his name, could hold a chamberlain's court and he further exhorted on behalf of the king and Bishop George that none should attempt to execute the office "under pane of law" and if any should so do he claimed that "for me and myne airis...it draws ws to na prejudice na henderyng of our richt in tyme to cum".² This encounter ended in victory for the bailie who on the refusal of these two men to hold the court in his name prevented it being held at all. The first challenge to the position of the Dempsters had been successfully thwarted.

Schoriswood had patently failed in his attempt to oust the Dempsters, for David was succeeded in the office by his kinsman, Walter.³ This transfer of power may have been effected during a period of weakness in the episcopate (1463-65) when Patrick Graham, the next bishop, was merely the "elect and had papal promotion".⁴

1. Brechin, I, no. 90.

2. Ibid.

3. Ibid., II, no. LVI.

4. Watt, Fasti, p. 40.

Certainly, relations between the bishopric and the house of Dempster had not improved by March 1464/65, when a case was heard before the Lords of Council, brought by Patrick, bishop of Brechin, "in the name and on behalf of his kirk of Brechin" against Walter Dempster of Auchterless and his mother, Elizabeth. It was concerned with the illegal setting and occupation of the lands of "Ardach, Aldecat, Botheris and Netherpetforth" with the offices of bailie and chamberlain of these lands, all of which, it was claimed, pertained to the bishop and the church of Brechin. The Lords declared that the alienation was contrary to the well-being of the Church and the "forme and ordour of the commoun law", and was to be of no force or effect. The lands and offices were to be returned to the disposal of the bishop and his successors, and the sheriff and bailies of Forfar were instructed to ensure that the decision was enforced, and that Dempster, his mother and their heirs did not attempt to regain the lands.¹ The second round in the contest had gone to the Church as was the third and final round to do.

In 1468 John Dempster of Auchterless, the next member of the family to hold office was forced to renounce into the hands of Bishop John Balfour² the above lands, together with the offices of bailie and chamberlain, "*ac omne ius et clameum proprietatem et possessionem que et quas predecessores sui habuerint seuque sibi Johanni et heredibus suis competere potuerint in futurum...quiteclamavit in perpetuum renunciando*". All documents relating to the office were to be renounced and, possibly most gallingly of all, John Dempster

1. Brechin, II, no. LX.

2. Watt, Fasti, p. 41.

then did homage to the bishop and promised to defend him against all mortals save the king, the earl of Crawford and Lord Lindsay.¹ This chapter in the history of the bailiary was ended, save for a postscript some years later in 1497, when John Dempster took the case for recovery of the lands and offices before the sheriff of Forfar. Episcopal procurators refused to recognise the claims and as far as is known the case rested in a legal stale-mate, one which presumably excluded the Dempsters from office.²

Thus the Church by appealing to royal justice had apparently managed to hold at bay the claims of its bailies and eventually to expel them from the office, though it is clear that some forty years after the renunciation, the Dempsters still had an interest in the episcopal estates of Brechin, which they attempted to defend at law. This appears to be a unique instance of success and shows that the Church was not totally at the mercy of its bailies, powerful though they may have been. Remedy for abuse could be sought in the law courts of Scotland.

John, first Lord Drummond, bailie of part of the lands of the Priory of Inchmahome, was at dispute with the prior over his rights to rents of certain lands as his bailie fee, and this led to litigation before the Lords of Council in 1491. The prior and convent raised the action against him for the teinds and fruits of the lands of "Lochfield, the Banks, Calquhollet, the two Collatis and the Spittaltouns". In this instance the lords found in favour of the bailie stating that Drummond had a right to the subjects in dispute

1. Brechin, II, no. LX.

2. Ibid., no. LXXX.

as they were assigned to him as his fee of bailiary.¹

Indeed throughout the period under consideration it was to the law courts of Scotland that combatants in any dispute over a bailiary increasingly turned. In 1513 the Lords *of Council* came to an important decision regarding the right of the Lord Morton to the bailiary of the monastery of Dunfermline. In June 1512 Alexander Stewart, commendator of Dunfermline, had granted him the bailiary of the abbey for one year and longer at the commendator's pleasure. Morton had no other claim to the office "bot ane lettir maid to him be my lord of Sanctandrois that last decessit". He fell on the field of Flodden with his father the king. The lords therefore decreed that the grant was of no force "becaus the said maist reverend fader is decessit and tharthrow the effect of the said letter of balzery seisis in the self".² Once again the lords of council had upheld the independence of the Church against the power of its lay bailies.

Again in January 1514/15 another case was called before the Lords of Council for decision. In this instance Robert Lauder of the Bass compeared personally before the lords, bringing with him "sic richtis and evidentis as he had tuiching the balzery and assedatioun of the lands of Abirladdy of umquhile George, bischop of Dunkeld".³ In this instance neither the cause nor the result of his appearance was given but it would appear that some dispute over the bailiary had arisen and that it was to the royal courts that both parties turned for resolution of it.

It is, therefore, clear that the Church did not simply accept

1. Menteith, I, pp. 520-1.

2. Acts of Council (Public Affairs), p. 13.

3. Ibid., p. 29.

without challenge the constant advance of the bailies. It attempted to halt them in two ways. First, restrictions were put upon the powers of the bailie, either in the grant of the office or in accompanying documents. This was ultimately the less effective means, as these could be eroded generation by generation. The second was by direct conflict, and this, when undertaken, appears to have been reasonably successful - on paper at least. How far the decisions of the central courts were in fact implemented is impossible to determine. But as has been noted, time was ultimately on the side of the bailies. They could afford to wait, and as the conditions became more unsettled and the Church became ever more dependent upon them, the restrictions imposed could no longer be enforced, and no longer could the Church afford to antagonise its protectors by taking them to court or tackling them over forcefully concerning their actions. Ultimately the Church was fighting a rear-guard and losing battle.

An attempt has been made to describe the means of remuneration of the bailie and to assess the extent to which the office was remunerative. Related to the latter factor were the moves on the part of the high clergy to restrict the freedom of action of the bailie. The conclusion appears to be inescapable, that the bailie could and did exploit his office a fact which goes far to explain the eagerness of the Scottish nobility to secure possession of ecclesiastical bailiaries. The bailiary was a source of revenues, of lands, of jurisdiction and of patronage. But possibly most important of all, it was a source of authority and influence. Recently the situation which must have existed all over rural Europe was cogently summarised. The author concluded that "an estate regime which required, in an age of rising prices, that rents should remain

'ancient' and fines 'reasonable'...tended to strengthen the prerogatives of the estate officer. From the tenants' point of view it was the latter, with his local knowledge...who counted... Fines, supposedly at the lord's will...were not infrequently in practice at the will of the officer who assessed and levied them, whose 'goodwill' the tenant might find it worthwhile to buy...There were also the more straightforwardly dishonest ways in which official pockets could be lined. A discreet proportion of the money received for wardships, for forfeitures of felon's goods, for sales of timber and for amercements might be retained in official possession. Or access to woods, parks and demesmes could be sold to tenants. Under the surface an informal network of ties and dependencies developed between officers and tenants, involving the transfer of a proportion of the profits of the estate into official hands".¹ Though these words refer specifically to an estate in the north of England, they might equally well depict the state of affairs in the Scotland of the period.

Undoubtedly the possession of one or more ecclesiastical bailiaries was the key to the rise in social position and prestige of many fifteenth century families. Two early fifteenth century stewards of the priory of Durham, Thomas Langton of Winyard and William Hoton of Hardwick Hall, were both prosperous members of the gentry. The historian of that monastery comments that it is impossible to prove but highly probable that much of their wealth was derived from their position as stewards.² The situation was

1. M.E. James, 'The Concept of Order in the Northern Rising of 1569', Past and Present, lx (1973), pp. 76-7.

2. R.B. Dobson, Durham Priory 1400-1450, p. 128.

similar in Scotland. A number of families stand out as having based their position to some extent upon the possession of ecclesiastical bailiaries. Among these might be numbered the Homes, the Ogilvies, the Oliphants, the Kennedys and the Maxwells. While in all probability it would be an exaggeration to attribute the rise of these families in political power and prestige solely to their possession of ecclesiastical bailiaries, it must be doubted if it would be an overstatement to declare that without possession of them they would have remained families of lesser significance. In all probability it was the possession of the ecclesiastical bailiaries of Kylesmuir and Inchcolm which made possible the elevation of the Campbells of Loudoun and the Stewarts of Rosyth¹ to the peerage. Even where the lands were not eventually erected into a temporal lordship for the descendants of the bailies of our period, the possession of the office for any length of time with the benefits which it carried might be sufficient to prompt the rise of a family. Possession of the office of bailie in late mediaeval Scotland and, indeed late mediaeval Europe, was often the means whereby a family of moderate influence became a family of great influence.

1. Above, pp. 310; 307-8.

CONCLUSION

Conclusion

It has been the aim of this thesis to describe the functions and role of the largely neglected office of ecclesiastical bailie, to trace its development and to assess its significance in late mediaeval Scotland. Two factors in particular affected that development. On the one hand there was the sharp decline in respect for the institutions and personnel of the Church, and on the other the complementary increasing assertiveness of the layman and lay society.

The bailie in essence and in origin was an administrative and legal official. His office was distinct from those of the steward, chamberlain and justiciar, though these might be held simultaneously. As the fifteenth century progressed, however, his principal raison d'etre altered. The European-wide changes in attitude towards the Church, the general lawlessness throughout Europe and, in the sixteenth century, the introduction of radical reforming thought combined to threaten the physical position of the Church. The institutions of the Church throughout western Europe were in need of defence and the office of lay advocate again rose in importance. These advocates adjusted themselves to the jurisdictional framework of each country. In Scotland it was the office of bailie which was to assume importance. As the basic function of the office changed, the social class of the office-holder rose. Throughout the kingdom it was conferred upon members of the nobility of greater and lesser degree. In the more lawless regions, where the vulnerability of the ecclesiastical institutions was greater, the office was held by members of the higher nobility. Elsewhere, members of the class of lairds, prosperous tenantry and the emergent professional classes

were appointed. As the office was little more than a sinecure among the higher echelons of society, the actual functions of estate management and law enforcement were in general left to the bailie-depute. He tended to be drawn from the class of lairds.

The office of bailie existed at every level of the ecclesiastical hierarchy, from the powerful and wealthy monastery to the lowly chapel. Within each type of institution the jurisdictional powers granted to the bailie varied considerably. Consequently, men from all levels of the nobility and educated classes were attracted to it. The great nobleman would secure for himself the possession of the principal bailiary of a major abbey or bishopric, while lesser families would find a slot at their own social and economic levels. The office of bailie permeated late mediaeval Scottish society.

The principal factors which affected the choice of the bailie were those of geography, family influence and the kin. Though in theory the choice may have lain with the abbot or bishop and the convent or chapter, in reality, in particular in the marcher regions, the freedom of choice of the Church was minimal. If an ecclesiastical institution were situated in close proximity to a powerful nobleman, almost certainly that nobleman would become bailie of the institution concerned. Once the office had been secured by a particular family the dominant trend was for it to become hereditary in that family, a development common to most mediaeval offices. The process was gradual and might take more than a century to complete. Many offices were still non-hereditary in the post-Reformation period. But, in general, particular families did tend to monopolise individual bailiaries. The process may be clearly seen in the case of the family of Ogilvy of Airlie who appear to have regarded the

acquisition of the bailiaries of the abbeys of Arbroath and Coupar-Angus, and possibly of the bishopric of Brechin as a single policy. By securing possession of these bailiaries an enclave of power could be established in the Angus area.

The principal intention of the bailie in gaining possession of the office was to secure for his own use a portion of the wealth of the Church. This might be done in a number of ways, both legal and illegal. Advantage accrued to the bailie in the form of fees, of the profits of justice, of land revenues and duties, of land grants, leases and feus, of the erection of ecclesiastical estates into temporal lordships in the post-Reformation period and in the more general and intangible factor of the increase in authority and jurisdiction. The office of bailie was, without doubt, highly remunerative.

The Church recognised the dangers inherent in the office and where possible sought to curtail the powers of the bailie. This might be done in a number of ways. Restrictions might be imposed in the grants of the office; bailies might be forced to enter into "obligations"; only short-term tenures might be granted; bailial families might be changed at each generation, or more than one family appointed to the office. If all else failed, recourse might be had to the law courts and, as happened on one momentous occasion, to the field of battle. But time was on the side of the bailie and the Church was fighting a rear-guard and losing battle.

In toto, therefore, possession of the office of bailie was one of the principal, if not the principal, means whereby laymen might participate in the government of the otherwise exclusively clerical Church. It was the means whereby the nobility and other social

classes might tap the wealth of the Church without the physical seizure of its temporality; and it was an important social catalyst. The fortunes of many a Scottish noble family were founded upon the control of ecclesiastical estates. The importance of this office alone should not, of course, be exaggerated. Many other factors affected the power of the layman in the late mediaeval Scottish Church. But the office of ecclesiastical bailie has for too long been neglected, for it was one of the principal factors which allowed the nobility of Scotland to secure ecclesiastical lands and revenues and to undermine the tottering edifice of the late mediaeval Scottish Church.

Appendix 1

Appendix 1

In this appendix an attempt has been made to sketch briefly the history of each Scottish ecclesiastical bailiary about which evidence survives. In certain instances little more can be done than to indicate who held the office at a particular moment or to prove conclusively that the bailiary did exist. The institutions are considered under the following ecclesiastical divisions. (1) The Regular Clergy: (a) Houses of monks and regular canons. (b) Houses of the military orders. (c) Houses of friars. (d) Houses of nuns. (2) The Secular Clergy: (a) The archbishoprics. (b) The bishoprics. (c) The cathedral chapters. (d) The collegiate churches. (e) The parishes and chapels. (f) The hospitals. (3) Other Ecclesiastical Institutions: (a) The ecclesiastical immunities. The entries in each section are arranged in alphabetical order.

Section 1a Houses of Monks and Regular Canons

The Abbey of Arbroath (Tironensian Monks)¹

As early as 1409 a member of the family of Ogilvy was bailie of the abbey.² The Ogilvies, therefore, had almost a forty year hold on the office when challenged by the family of Lindsay in 1445.³ The consequence of this challenge was the famous battle fought outside the gates of the abbey.³ Though the Ogilvies were defeated in that encounter, the future, with regard to the bailiary of the abbey, lay with them. In 1467 Sir James Ogilvie of Airlie appeared as full bailie⁴ and in 1485 James Ogilvy and his son, John Ogilvy of Ballindoch, were created justices, chamberlains and bailies for eleven years on the death of John Ogilvy of Luntreith.⁵ By this time the family of Ogilvy appears to have had a monopoly of the office. After this date many commissions which included Ogilvies are extant.⁶ On 1 April 1514 the second of the two extant letters of bailiary is encountered, by which Lord Ogilvy was created justiciar, chamberlain and bailie of the abbey for a period of five years.⁷ After this there are relatively few references to the family, though one dated 10 January 1526 might be taken to indicate that the Ogilvies were not fulfilling their functions as bailies.

1. For a more detailed history of this bailiary see above pp. 244-256.

2. Arbroath, II, no. 49.

3. G. Buchanan, Rerum Scoticarum Historia, p. 111; R. Lindsay of Pitscottie, The Historie and Cronicles of Scotland, I, pp. 54-5; J. Lesley, The History of Scotland from the death of King James I in the Year 1436 to the Year 1561, p. 18.

4. Arbroath, II, no. 174.

5. Ibid., no. 281; National Library of Scotland, Advocates Manuscript 34.4.3., fo. 112 recto.

6. Arbroath, II, nos. 311, 336, 339.

7. S.R.O., Airlie: GD16/25/70.

The last justice ayre of the abbey had not been held, but the Ogilvies were not to be penalised for this omission.¹ In 1529 David Betoun, abbot of Arbroath, promised to "supple and mantein" James Ogilvy in his bailiary, offices and other possessions,² and further, in another bond, he promised that should he be promoted to another benefice, he would grant letters of bailiary to James Ogilvy of Airlie for nineteen years.³ Finally, in 1543 in a royal commission Mary, queen of Scots, created James Ogilvy and his son, bailies of Arbroath, justices for trial and punishment within the bailiary.⁴ The family of Ogilvy had held the principal bailiary of the abbey throughout the period under consideration and beyond.

Regality of "Athkarmoure"

In 1476 the offices of justiciar, chamberlain and bailie of the regality of "Athkarmoure" were granted to John Hamilton of "Bradhurst".⁵ Again in 1529 this regality was treated as a separate entity.⁶

Barony of Torry

On 3 July 1527 Gilbert Menzies, provost, and William Rolland, bailie of the burgh of Aberdeen, and their heirs and assignees were created bailies of the barony of Torry in the sheriffdom of Kincardine for a period of nineteen years with all normal powers.⁷ This is the only such grant to burgesses and their heirs to have been discovered.

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1. Arbroath, II, no. 637; S.R.O., Register House Charters: RH6/1002A.
 2. S.R.O., Airlie: GD16/46/8.
 3. S.R.O., Airlie: GD16/41/6.
 4. Coupar Chrs., II, no. CLXXXVIII.
 5. Arbroath, II, no. 198.
 6. Ibid., no. 733.
 7. Ibid., no. 646.

The Abbey of Balmerino (Cistercian Monks)

The abbey lands of Balmerino were composed of the three baronies of Balmerino, Pitgorno and Barry. There may have been a separate bailie for each but there is no mention of such an official for the barony of Pitgorno. The names of the bailies of the barony of Balmerino before the Reformation are not known with certainty but in a crown charter of 5 December 1599 to John Kinnear, younger of that Ilk, creating him and his heirs hereditary bailies of that abbey, the preamble stated that he and his predecessors had for many years been bailies to the abbots of Balmerino of all their lands, baronies, fishings and all else which belonged to the abbey.¹ It might, therefore, be reasonable to suppose that the Kinnears were also bailies of the barony of Pitgorno, thereby controlling all the lands of the abbey south of the River Tay.

The Barony of Barry

More is known of the history of the detached barony of Barry which lay on the northern side of the Tay estuary. On 14 May 1506 the abbot James with the consent of the convent created Thomas Maule of Panmure the bailie of the barony of Barry for an unspecified time at the will of the abbot.² Five years later on 10 February 1511 another commission of bailiary was issued to Thomas Maule by the abbot Robert and the convent,³ and again on 19 June of the same year, when the grant was specifically stated to last for nineteen years.⁴ The Maules retained possession of the office right up to the period of

1. J. Campbell, Balmerino and its Abbey, p. 221.

2. Panmure, II, pp. 269-70; S.R.O., Fraser: GD86/53.

3. Panmure, II, p. 279.

4. Ibid., p. 280; S.R.O., Curle: GD111/6/1.

the Reformation. On 10 February 1554 Robert Maule of Panmure was created bailie of Barry for three years.¹ Probably in the year 1557 the bailiary was re-granted for another five years,² and finally in October 1558 Robert Maule was granted the bailiary of Barry for life and was then to be followed in the office by his heirs for a period of "three nineteen years".³ Though the bailiary never became hereditary in the Maules before the Reformation, the last grant was probably regarded as being the equivalent.

The Priory of Coldingham (Benedictine Monks)

The history of the bailiary of the priory of Coldingham is long, complicated and in many ways unique. This priory more than any other fell under the all-pervading control of a single family, that of Home of Home, and became a virtual appanage of that family.

Long before the beginning of the period under consideration the bailiary of Coldingham was already at issue among the powerful nobility of the south-east. In 1414 the office of principal bailie of the priory was held by the earl of Douglas and a pension of £10 was paid to Alexander Home as "sub-bailie".⁴ Douglas soon disappeared from the scene and from 1425 onwards the house of Home monopolised the office. In that year Alexander Home of that Ilk and David Home of Wedderburn agreed that the latter should "purches the balyhery of the hous of Coldyngham to hym selfe" by any means possible. David promised that when he had secured the office Alexander would be given

1. Panmure, II, p. 309.
2. Ibid.; S.R.O., Register House Transcripts: RH1/2/653.
3. Panmure, II, p. 309.
4. Coldingham Correspondence, nos. XCVIII, XCIX.

one half of the profits. When Alexander considered the time to be opportune the whole bailiary was to be given to him "for al the term of his lyfe", and Alexander as bailie promised to give David one half of the profits of the office.¹

The consequences of this agreement began to unfold when in 1441 the bailiary was granted to David Home of Wedderburn for forty years,² though the very next year the prior of Durham claimed that the grant was to last for only twelve years.³ On 20 May 1442 Alexander Home, with the consent of King James II, Bishop James Kennedy and the earls of Mar and Crawford, was promoted to the bailiary of the priory by the prior of Durham.⁴ These machinations of the early 1440s were explained in a document of 1449 where it was stated that Sir David Home had resigned the office of bailie. This had then been conferred upon his cousin, Alexander Home.⁵ The proposals of 1442 had therefore been effected.

The future now lay with the Home of Home branch of the family and it was no surprise when on 2 August 1465 the bailiary of the priory of Coldingham was conferred by Prior John and the convent in fee and heritage upon Alexander Home of that Ilk.⁶ Six months later this grant was confirmed by the king under the great seal⁷ and this royal confirmation was followed by a papal confirmation on 8 December 1467.⁸ Then on 25 December 1472 a further royal confirmation was secured.⁹ On 21 April 1485 the supplication by Alexander Home for

1. H.M.C. Rept., Milne-Home, p. 19, no. 3.

2. Coldingham Chrs., no. DLXII.

3. Ibid., no. DLXIV.

4. Ibid., no. DLXVII.

5. Ibid., no. DLXXI.

6. H.M.C. Rept., XII, pt. 8 (Home), p. 176, no. 298.

7. R.M.S., II, no. 859.

8. Register of Supplications, vol. 630, fo. 330 verso; C.P.L., XII, p. 620.

9. R.M.S., II, no. 1093.

another papal confirmation was accepted¹ and finally on 16 June 1493 yet again the grant was confirmed under the great seal.² The Homes strove to settle unequivocally their rights to the bailiary during the troubled years of the late fifteenth century by securing both royal and papal confirmations of their tenure of the office.

The history of the monastery in the sixteenth century is complicated but though priors of various families might come and go,³ the Homes managed to weather the political storms and retained possession of the bailiary. Alexander, third lord of Home, and his brother, William, were executed for treason in 1516 and the estates and offices of the family were forfeited. In 1522, however, all were restored to his brother, George,⁴ including the office of bailie of Coldingham.⁵ As no member of the Home family held the office of prior between the years 1517 and 1571,⁶ during the period 1517 to 1522 all legal hold of the Homes over the priory was lost. There is in fact a reference to Patrick Cranston as bailie of the priory of Coldingham in May 1519.⁷ But from 1522 there is every reason to believe that the Homes remained bailies of the priory and in 1524 Home, in his position as bailie, was ordered by royal mandate to search for the deforcers of Ormond.⁸ Certainly, immediately before the Reformation the office was still in the hands of the Homes for on

1. Register of Supplications, vol. 845, fo. 120 recto - 120 verso.

2. R.M.S., II, no. 2162.

3. M. Dilworth, 'Coldingham Priory and the Reformation', Innes Review, XXIII (1972), pp. 118-132.

4. Peerage, IV, pp. 456, 458.

5. H.M.C. Rept., XII, pt. 8 (Home), p. 179, no. 305.

6. M. Dilworth, Coldingham Priory and the Reformation, Innes Review, XXIII (1972), pp. 120-9.

7. S.R.O., Fraser: GD86/83.

8. Acts of Council (Public Affairs), p. 211.

16 April 1551 Alexander, fifth Lord Home, was served heir to his father in the bailiary of all the church lands belonging to the prior and convent of Coldingham.¹

The Abbey of Coupar-Angus (Cistercian Monks)²

The family of Ogilvy were tenants on the lands of the abbey of Coupar-Angus from 1443.³ On 19 May 1465 James Ogilvy of Airlie was bailie of the monastery⁴ and in the 1480s there is evidence of members of that family holding courts of the abbey.⁵ During the same period the position of the Ogilvies was possibly challenged by the Rattrays of that Ilk⁶ and again in the period 1507x12 an attempt was made by the abbot of Coupar to lessen their powers.⁷ However, the earliest letter of bailiary dates only from 4 May 1522 when James Ogilvy of Airlie was created bailie of the abbey for a period of nineteen years,⁸ but within two years the office was re-granted to the family, in this instance for a period of only five years.⁹ From this date until the bailiary was finally made hereditary in the family in 1539 no evidence concerning the office is extant. In that year the bailiary was granted to James Ogilvy of Airlie and his heirs in fee and heritage.¹⁰ On the same day the monks of the abbey were called upon to assent to the grant¹¹ and this in turn was followed by an obligation on the part of the Ogilvies that they would

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1. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.
 2. For a more detailed history of this bailiary see above, pp. 257-65.
 3. Coupar Rental, II, p. xxv.
 4. Coupar Chrs., II, no. cxxxix.
 5. Fragmenta Scoto-Monastica, ed. W.B.D.D. Turnbull, pp. xxv - xxvi.
 6. Above, pp. 258-9.
 7. Coupar Rental, II, app. IV, no. 12.
 8. Coupar Chrs., II, no. CLXVI.
 9. Ibid., no. CLXVII.
 10. Ibid., no. CLXXIII.
 11. Ibid., no. CLXXIX.

not undertake or perform certain functions or actions.¹ So vexing was this to them that eventually in the period after 1565 they succeeded in having the document declared null and void.² On 23 September 1540 the grant was confirmed by papal commissioners³ and finally on 12 December 1543 a commission was issued in the name of Mary, queen of Scots, in favour of James Ogilvy and his son, bailies of Coupar, constituting them justices for trial and punishment within the bounds of the said bailiaries.⁴ The connection between the family of Ogilvy and the abbey of Coupar-Angus runs throughout the period under consideration and beyond.

The Barony of Murthly

In March 1487 John and Alexander Strachan along with their mother, Margaret Charteris, were appointed to the "sub-office" of bailiary of the barony for seven years, and in March 1493 William Forbes of Towie was constituted bailie of Murthly for nineteen years.⁵

The Abbey of Crossraguel (Cluniac Monks)

No reference to a bailie of the abbey has been discovered at any date prior to the Reformation. On 6 July 1561 a commission was issued with regard to the confirmation of a hereditary grant of the office of bailie of the abbey to Gilbert, earl of Cassilis.⁶ Though

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1. S.R.O., Airlie: GD16/25/76/1.
 2. S.R.O., Airlie: GD16/25/76/2.
 3. Coupar Chrs., II, no. CLXXXV.
 4. Ibid., no. CLXXXVIII.
 5. Coupar Rental, I, p. xxxv.
 6. Crossraguel, I, no. 75.

this is the earliest reference to a Kennedy acting as bailie of the monastery to be found, given that this grant was made in fee and heritage and that the abbey lay in the heart of Kennedy country, it is inconceivable that the office of bailie was not previously held by a member of that family.

The Abbey of Culross (Cistercian Monks)

Little information exists concerning the abbey of Culross for which no chartualry is extant with the consequence that knowledge of the office of bailie as it functioned there is slight. The earliest reference to be found to a bailie is 17 May 1481 when a certain David Stewart was said to be "balzhe till ane venerable fadyr in cryist, James be the tholying of god, Abbot of Culros and the convent of the samyn".¹ He was followed in the office by Patrick Blackadder of Tulliallan who had been granted a tack for nineteen years. On 10 August 1495 he resigned it into the hands of the abbot who re-granted the office to Archibald, earl of Argyll. Patrick and his heirs were to remain as deputies for the period specified and had power to appoint deputies under them. The earl promised to defend Blackadder in his office and that he should retain it if Argyll resigned his office. He was, moreover, to enjoy the profits of the lands of Balgeny which pertained to Blackadder at the time of the transfer of the offices and was enjoined to perform all the accepted duties.² The family of Argyll³ still retained possession

1. S.R.O., Douglas: GD98/VI/1.

2. S.R.O., Cardross: GD15/153.

3. An interesting post-script to this history is concerned with the celebrated murder of James Inglis, abbot of Culross on 1 March 1529/30. The abbot was killed by the Laird of Tulliallan and his servants. The latter was eventually delivered to the chief justice and executed. (J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, pp. 143-4). The Laird of Tulliallan was, of course, a Blackadder (Criminal Trials in Scotland, ed. R. Pitcairn, I, p. 151) and the chief justice was the earl of Argyll. (J. Lesley, The History of Scotland from the Death of King James I in the Year 1436 to the Year 1561, p. 144). Possibly discontent still rankled over Blackadder's displacement from the bailiary in 1495.

of the bailiary of the abbey in 1568.¹

The Abbey of Deer (Cistercian Monks)

Of the office of bailie of the abbey of Deer, situated in the north-east of the kingdom, nothing is known, save that in 1539 Thomas Cheyne, the seventh laird of Esslemont, was one of the bailies.²

The Abbey of Dryburgh (Premonstratensian Canons Regular)

Only one reference to the bailiary of the monastery of Dryburgh has been found, from which it may be concluded that both George, the fourth, and Alexander, the fifth Lords Home, were bailies of the abbey. On 16 April 1551 the latter was served heir to his father in the office of bailie of all the Scottish lands of the monastery and though it is not specifically stated, the tenor of the transaction would lead to the belief that the office was by this period hereditary in that family.³ However, there is evidence of an earlier Home connection with the abbey. According to the preamble of a royal letter in the early 1530s the monastery of Dryburgh was deprived of its abbot and the possessions of the house would have been forcibly dissipated or the monastic life robbed of its immunity if Andrew Home had not defended the place until the abbot James was provided to his office. For his work Home was granted a life pension.⁴

The Abbey of Dundrennan (Cistercian Monks)

With regard to the bailiary of the monastery of Dundrennan all

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1. R.M.S., IV, 1885.
 2. A.Y. Cheyne, The Cheyne Family in Scotland, p. 79.
 3. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.
 4. The Letters of James V, edd. R.K. Hannay and D. Hay, p. 286.

that may be said is that Robert, fifth Lord Maxwell, was bailie and justice-general of the abbey at some time between the years 1513 and 1544.¹

The Abbey of Dunfermline (Benedictine Monks)

Unfortunately the register of the monastery of Dunfermline yields little information on the practice of bailiary, save the formulary style for the grant of the office of justice of the regality.² The document is undated but is probably of sixteenth century provenance.³ The earliest reference to come to light of a bailie of the abbey is in fact to a bailie of a pendicle of the monastery. On 12 March 1471 William Preston of Craigmillar was bailie of the lordship of Musselburgh to "oure abbay of Dunfermline".⁴

Slightly more is known of the bailiary of the chief lands of the regality. In 1502 a certain David Couper was cited as being bailie of the regality and a retour of inquest was made before him.⁵ From 1533 to 1538 Archibald Betoun of Capildray was bailie and justiciar of the regality.⁶ On occasion he was aided by the services of the joint-bailie James Colville of East Wemyss.⁷ These men were followed in the office by others of a similar social background. Patrick Halkett of Pitfirrane and Robert Durie of that Ilk both held office in the immediately succeeding years.⁸

However, for a brief period during the last years of the reign

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1. Carlaverock, I, pp. 174-5.
 2. Dunfermline, no. 588.
 3. Dunfermline Court Bk., p. 4, note 1.
 4. H.M.C. Rept., II (Montrose), p. 167, no. 34.
 5. Melville, III, pp. 53-4, no. 55.
 6. Dunfermline Court Bk., pp. 41-153.
 7. Ibid., pp. 95, 98 and passim.
 8. Ibid., p. 26.

of James IV the monastery secured the employment of two bailies of somewhat greater social pretensions, the earl of Bothwell and the Master of Morton. Patrick Hepburn of Dunsyre, who became earl of Bothwell in 1488,¹ was bailie of the abbey by at least 3 September 1502 when a papal confirmation of the office to him is extant.² On his death in 1508³ he was followed in the office by James Douglas, Master of Morton, who acted as bailie and justiciar of the abbey in 1508 and 1509.⁴ In June 1512 Alexander Stewart, commendator of the abbey, renewed the grant of the office for one year and longer at the will of the commendator but on the death of Stewart at Flodden in 1513 the grant fell void and though Morton attempted to defend his title at law, as far as may be ascertained, he lost possession of the office.⁵

The Abbey of Glenluce (Cistercian Monks)

Gilbert, earl of Cassilis, was bailie of the monastery of Glenluce before 1523. On 15 June of that year a commission of justiciary was issued to him and his depute Donald Lennox to be justices of the king in hac parte for three years and longer at the will of the king.⁶ They were to render account annually to the exchequer for the goods of all people condemned to death.⁷ On 12

1. Peerage, II, p. 151.

2. Register of Supplications, vol. 1150, fo. 139 verso.

3. Peerage, II, p. 152.

4. The Exchequer Rolls of Scotland 1508-1513, ed. G. Burnett, p. 242.

5. Acts of Council (Public Affairs), p. 13.

6. Because Glenluce was a barony and not a regality with powers to consider the four pleas of the crown, it was the king who appointed the justiciar.

7. The Exchequer Rolls of Scotland 1523-1529, ed. G.P. McNeill, p. 614.

November 1543 Gilbert, third earl of Cassilis, was granted the bailiary of the barony of Glenluce in the sheriffdom of Wigton for five years by the abbot Walter.¹ Finally, on 14 February 1561/2 Gilbert, the fourth earl of Cassilis, obtained from the commendator, Mr. Thomas Hay, a lease of the whole property and revenues of the abbey for the annual payment of 1000m Scots, which was far below the true worth of the revenues of the abbey.²

The Abbey of Holyrood (Augustinian Canons Regular)

Evidence concerning the bailiary of the abbey of Holyrood and its regality of Broughton is disparate. Little may be said with regard to the history of the bailiary more than merely to catalogue those men who held office.

The earliest reference to a bailie of the abbey to be found was to Robert Michelson in October 1458.³ Robert Lauder was bailie on 13 February 1486/7.⁴ He was probably succeeded by John Dawson of Leith who was said to be bailie of the abbot, Robert, on 29 May 1489.⁵ On 9 December 1490 Mr. Richard Lawson of Highrigg and Alexander Hepburn of Whitsome held the court of the abbey at Whitekirk as bailies of the abbey.⁶ The earliest reference to the important and capable figure of George Kincaid, acting as bailie was on 28 July 1485.⁷ He remained in office until at least 7 July 1508⁸ and was active throughout that period.⁹ He was succeeded as bailie of

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1. S.R.O., Ailsa: GD25/1/451.
 2. G. Chalmers, Caledonia, V, p. 421.
 3. S.R.O., Antiquaries: GD103/1/8.
 4. Prot. Bk. Young, no. 71.
 5. Ibid., no. 216.
 6. Ibid., no. 398.
 7. Ibid., no. 4.
 8. Ibid., no. 1833.
 9. Ibid., passim.

Broughton by John Crawford in Bonnington by 13 April 1509¹ and the latter would appear to have remained bailie until 8 November 1513 at the latest when Oliver Broun first appeared in that office.² Broun was still bailie on 3 March 1519/20, though by this time the office was shared with Robert Monypenny of Pilrig.³ The latest person to be discovered as bailie of the abbey was a certain Andrew Hamilton who on 5 March 1529/30 was the bailie of the abbot Robert.⁴

The Abbey of Holywood (Premonstratensian Canons Regular)

On 13 May 1495 John, abbot of Holywood, and the whole convent "withoutyn ony descrepance" created John, Lord Maxwell, and his two eldest sons bailies of all the lands of the barony of Holywood for nineteen years and of all their other lands lying in the sheriffdom of Dumfries.⁵ This was followed some seven years later by a grant by the same abbot to Lord Maxwell and his two sons and the longer liver of them of the bailiary of the abbey in life-rent.⁶ A grant in life-rent to a father and both of his sons might be expected to be of considerable duration. Thereafter, at some time in the period 1513x44, the bailiary was yet again granted to Robert, Lord Maxwell.⁷ This may well have been the series of grants recorded in the St. Andrews Formulare and dated 1523.⁸ In the first of these the abbot,

1. Prot. Bk. Young, no. 1889.

2. Ibid., no. 1988.

3. S.R.O., Miscellaneous: GD1/21/1/1.

4. Prot. Bk. Johnsoune, no. 13.

5. Carlaverock, II, p. 450, no. 61.

6. Ibid., I, p. 165.

7. Ibid., pp. 174-5.

8. The actual documents used by John Lauder in the Formulare are extant and are readily available in calendared form. (H.M.C. Rept., XV, pt. 8 (Buccleuch), pp. 71-3, nos. 170-3).

John, and the convent feued certain lands to Robert, Lord Maxwell, together with the office of bailie of the barony and lordship of Holywood in perpetual emphyteosis.¹ The tenure was now hereditary. This was immediately followed by a papal commission to determine that the grant was to the utility of the abbey.² The commission reported in the affirmative and the grant was confirmed by apostolic authority.³ With that the family of Maxwell had succeeded in securing the hereditary tenure of the abbey.

The Abbey of Inchaffray (Augustinian Canons Regular)

From the earliest part of the period under consideration a connection between the family of Oliphant and the abbey of Inchaffray is evident. On 25 January 1468/9 George, abbot of Inchaffray, came to an arrangement with Laurence, first Lord Oliphant, whereby it was agreed that when he was admitted to the temporality and the spirituality of the abbey, he would create Lord Oliphant full bailie of all the lands, rents and possessions of the abbey for life, though the permission of Lords Arran and Boyd had first to be obtained. Certainly Oliphant was not the first bailie of the abbey, as it was stated that his fee was to be the same as that which his predecessors had received.⁴ The office was said to have remained in the family of Oliphant during the reigns of James V, Queen Mary and James VI.⁵

Though there is no direct reference to Oliphant as bailie of

1. H.M.C. Rept., XV, pt. 8 (Buccleuch), p. 71, no. 170. This particular document is not, in fact, included in the Formulare.

2. St. Andrews Formulare, I, no. 77.

3. Ibid., nos. 78, 79.

4. Oliphant, pp. 13-14, no. 23.

5. Liber Insule Missarum, p. xv.

the abbey until 1544, in 1510 the prior and convent called upon "ane noble and mychty lord Johne, Lord Oliphant" to compel his cousin Andrew Oliphant to pay the annual rents of Pitcairns and if necessary to "strenzhe the ground and put sufficient gudis within oure place".¹ This is certainly a task which a bailie would have been expected to perform and it was probably in this capacity that Oliphant acted.

Finally, on 7 March 1544 Gavin Dunbar, commendator of the abbey, and the convent of the place granted to Laurence, Lord Oliphant, in life-rent, and to Laurence, his son and apparent heir, and his heirs male, the office of bailie of all the lands and possessions of the abbey in Scotland in fee and heritage.² This was confirmed by apostolic authority by Cardinal David Betoun on 28 May 1545 when letters to that effect were issued.³

The Abbey of Inchcolm (Augustinian Canons Regular)

Only one piece of information regarding the bailiary of the island monastery of Inchcolm is extant for the period under consideration. It is a letter of bailiary by the abbot, Richard, and the convent of the place, dated 2 June 1538, granting the bailiary of the abbey to Henry Stewart of Rosyth, his heirs and assignees for a period of nineteen years.⁴

The Priory of Inchmahome (Augustinian Canons Regular)

The monastery apparently turned to two different families to supply its bailies. In the 1490s the bailie of a part of the lands

1. Oliphant, p. 50, no. 108.

2. Ibid., pp. 67-70, no. 119.

3. Ibid., pp. 72-5, no. 121.

4. Inchcolm, no. LVIII; S.R.O., Register House Charters: RH6/1171.

of the priory was John, first Lord Drummond. Drummond quarrelled with the prior, David, over his rights to the bailie-fee and this resulted in litigation before the Lords of Council in 1491. There the prior pursued the case against Drummond for taking from the abbey the teinds and fruits of the lands of Lochfield, the Banks, Calquhollet, the two Collatis and Spittaltouns. The Lords found that Drummond did have right to these as they had been assigned to him as his bailie-fee.¹

When evidence is next extant for the office of bailie it is found to have come into the hands of the family of Erskine. In September 1531 Robert Erskine, commendator of the priory and the convent of the place, created James Erskine, brother of John, Lord Erskine, "baillie of (the) barony of Cardross and all and syndry our landis and possessiounis pertening to us and our said place...for all the dayis and termis of nyntene zeris".² The office remained in the Erskine family up to and beyond the Reformation. Another grant was made to James Erskine for nineteen years in 1552.³ This was renewed in 1553,⁴ and again in 1562.⁵ The Erskines had secured a firm hold of the bailiary of that monastery.

The Abbey of Jedburgh (Augustinian Canons Regular)

Little is known of the bailiary of Jedburgh Abbey, partly because the register of that abbey is the only Scottish monastic chartulary not in print, and partly because the vast bulk of the

1. Menteith, I, pp. 520-1.
2. S.R.O., Mar and Kellie: GD124/1/962.
3. S.R.O., Mar and Kellie: GD124/1/963.
4. S.R.O., Mar and Kellie: GD124/1/964.
5. S.R.O., Mar and Kellie: GD124/1/971.

material falls outwith the period under consideration. Only two references to the office have been discovered. On 21 September 1528 Sir Andrew Ker of Ferniehurst¹ and John, his son and apparent heir, were appointed bailies of the lands of the monastery.² Then on 16 October 1547 the abbot John and the convent created John Ker of Ferniehurst and his legitimate heirs male bailies of all the lands of the monastery lying within the sheriffdom of Roxburgh.³

The Abbey of Kelso (Tironensian Monks)

In the chartulary of the abbey there is a "small portion consisting of formulae or styles which admit of no date",⁴ and among these is a formulary grant of the office of bailie made by a certain Abbot William and the convent of the place. This probably lies within the period 1435⁵ when a certain William was abbot and 1464⁶ when a certain Alan was abbot. The office was granted to a single man and was to last at the will of the abbot (*pro nostra voluntate duraturum*).⁷

However, in 1473 the bailiary of the abbey was granted in fee and heritage to the family of Ker of Cessford. On 15 July of that year the grant in perpetual feu-ferme, previously made by the abbot and convent of the monastery, of the offices of bailie and justiciar

1. The family of Ker of Ferniehurst were also bailies of the royal manor of Jedburgh Forest. (*R.S.S.*, II, 4967).

2. *Peerage*, V, p. 58.

3. *S.R.O.*, Register of Charters and Leases by abbots, commendators etc., 1479-1596, fo. 25 recto - 25 verso.

4. *Kelso*, p. xviii.

5. *Ibid.*, p. xiv.

6. *Ibid.*, p. xv.

7. *Ibid.*, no. 549.

of all the lands, possessions and rents of the abbey to Walter Ker of Cessford and his heirs was confirmed by papal authority.¹ This was repeated fifteen days later.² Then on 1 October 1478 the offices of justice and bailie of all the lands of the abbey were again granted by the abbot Robert and the convent to Walter Ker and his heirs.³ Though this is the latest reference to a bailie of the principal lands of the abbey which has been discovered there is every reason to believe that the office remained with that branch of the Ker family, for in 1607 the abbey was erected as a temporal lordship for Robert, earl of Roxburgh.⁴

The Barony of Lesmahagow

On 10 October 1456 the detached barony of Lesmahagow in the sheriffdom of Lanark, which belonged to the abbey, was granted by the abbot Richard and the convent to James, Lord Hamilton, for the duration of his life.⁵ Almost a century later on 2 September 1532 that barony was still a perquisite of the family when it was granted in fee and heritage to James Hamilton of Finnart and his legitimate heirs male by the abbot Thomas and the convent of the place.⁶ To this was added the captaincy of the castle of Nathane, the latter grant being confirmed again under the great seal on 4 January 1538/9.⁷

The Abbey of Kilwinning (Tironensian Monks)

Information concerning the bailiary of the monastery of Kilwinning is scattered, sparse and chronologically late, the earliest

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1. Register of Supplications, vol. 691, fo. 293 recto.
 2. Register of Supplications, vol. 694, fo. 35 recto.
 3. H.M.C. Rept., XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35.
 4. A.P.S., IV, pp. 399-400.
 5. H.M.C. Rept., XI, pt. 6 (Hamilton), pp. 213-4, no. 134.
 6. R.M.S., III, 1220.
 7. Ibid., 1885.

piece coming only in 1540. On 29 September of that year Alexander, abbot of Kelso, and the convent of that place created Hugh, earl of Eglinton, and his heirs, justiciars, chamberlains and bailies of the regality and all the lands of the monastery in Scotland for six years.¹ Four years later on 28 October 1544 a hereditary grant of the office was made to the earl. In the preamble it was stated that members of the family had held the office for a considerable time (*per longum tempus immediate precedens*). For this and other reasons all three offices of bailie, justiciar and chamberlain of all the lands of the abbey in Scotland were granted in fee and heritage to the family.² Five months later, on 8 November 1544, a charter of confirmation of this grant was issued by Queen Mary with the advice and consent of James, earl of Arran and the three estates.³ Consent of the highest power within the kingdom had now been gained.

Slightly later on 10 February 1544/5 a commission was issued by David Betoun, archbishop of St. Andrews, to the chanter and sub-dean of Glasgow and James Cottis, canon of Glasgow, to investigate the grant with a view to confirmation by apostolic authority.⁴ Presumably this delay was due to the length of time required to supplicate to Rome and to receive a reply. The process was completed some two months later when on 6 April 1545 the grant was confirmed by apostolic authority before parties and witnesses in the university of Glasgow.⁵

However, though the grant had been made in fee and heritage, the position of the Montgomeries as bailies was soon to be challenged.

1. S.R.O., Eglinton: GD3/1/723.

2. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 5.

3. R.M.S., III, 3030.

4. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 10.

5. S.R.O., Eglinton: GD3/1/728.

The first earl died in 1545¹ and it seemed that all would go smoothly in the transfer of power and office. On 30 September 1545 a precept of clare constat was issued by the abbot Alexander and the convent for the infeftment of Hugh Montgomery, grand-son of the late Hugh, earl of Eglinton, as nearest heir of the latter in the offices.² Yet by 26 September 1546 the second earl had still not been infeft in the offices for the abbot had refused so to do. Montgomery's attorney consequently protested for remeid of law before the Lords of Council.³ Presumably this was successful for on 9 August 1547 the abbot and convent issued both a precept of clare constat for his infeftment⁴ and an instrument of sasine following thereupon.⁵ The earl had now secured the office but clearly was not fully satisfied with his position. On 19 May 1552 another precept of clare constat was issued by Gavin, the commendator, recognising that the last earl had died vested and seised in the offices⁶ and on 1 December 1552 a royal grant confirmed the infeftment of the commendator.⁷

The Abbey of Kinloss (Cistercian Monks)

Nothing is known of the early history of the office of bailie of this abbey and it is only with the appointment of James Grant, third laird of Freuchie, by the abbot Robert Reid about the year 1539⁸ that the office first comes to light. James Grant was still

1. Peerage, III, p. 435.
2. S.R.O., Eglinton: GD3/1/730.
3. S.R.O., Eglinton: GD3/1/732.
4. S.R.O., Eglinton: GD3/1/733.
5. S.R.O., Sir William Fraser's Inventory of the title deeds of the earldom of Eglinton and barony of Kilwinning (1857), Bundle 80, no. 19.
6. S.R.O., Eglinton: GD3/1/736.
7. Kilwinning, no. 33.
8. Grant, I, p. 106.

bailie in 1544 when he appointed Alexander Cumming of Altyre as his bailie-depute in the office. In effect Grant empowered Cumming to perform all the functions of the office in his absence. His appointment was to endure for the lifetime of Grant and for his own lifetime, though presumably if Grant predeceased Cumming, the latter would lose the office.¹

The Abbey of Melrose (Cistercian Monks)

The earliest reference to a bailie of the abbey of Melrose is on 24 April 1484 when Lawrence Tweedy, the sub-prior, and other named members of the convent created David Scott of Branhholm who had previously been bailie, and his son, Robert Scott, bailies of all the lands over which Scott had previously exercised jurisdiction. The grant was to last for five years.² From this date there was silence until 20 December 1519 when the abbot Robert and the convent created Walter Scott of Buccleuch bailie of the lands of the abbey, except for the estate of Kylesmuir which, as will be seen, was held by Campbell of Loudoun,³ and lands in Carrick and Nithsdale. This grant was to last for nineteen years.⁴ On the same date Walter entered into an "obligation" with the abbey, promising to exercise his office truly and loyally.⁵ In 1524 the final stages for securing the hereditary tenure of the bailiary were begun, when on 17 November Andrew Durie, postulate of Melrose, and the convent granted Walter

1. Grant, III, p. 90, no. 95.

2. Buccleuch, II, pp. 82-3, no. 84.

3. Below, pp. 364-5.

4. Buccleuch, II, pp. 133-4, no. 126.

5. Ibid., pp. 135-6, no. 127.

Scott of Branhholm and his heirs male the bailiary of all the lands of Melrose, save those of Kylesmuir, Carrick and Nithsdale in fee and heritage.¹ This was followed one half year later on 17 May 1525 by a papal confirmation of the grant.²

The conferment of a bailiary in fee and heritage generally marked the end of the tale of its development but some ten years later, despite the hereditary nature of the grant, the bailiary passed to another more powerful family, that of the royal house of Stewart, in the person of King James V. Presumably the king took the opportunity afforded by the warding in Edinburgh at the king's will of Walter Scott of Buccleuch (Wicked Wat) in 1535³ to secure for himself the bailiary of one of Scotland's wealthiest abbeys. The king became the "special protector, defender and bailie of the abbey lands" for the duration of his life.⁴ The continued royal interest was further illustrated by a document dated 30 August 1542, addressed by King James in a most peremptory manner to the "baillie of our abbay of melross" ordering him to give sasine to a certain James Hoppringale under pain of loss of office.⁵ In this unique example a Scottish abbey actually acquired as its bailie the sovereign of the land. A more powerful protector could scarcely be imagined.

The Estates of Kylesmuir and Barmuir

The principal detached bailiary of the abbey of Melrose was that of Kylesmuir and Barmuir in Ayrshire. In 1521 the office of

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1. Buccleuch, II, pp. 142-3, no. 131; S.R.O., Morton: GD150/1447.
 2. Ibid., pp. 143-4, no. 132.
 3. Peerage, II, p. 229.
 4. S.R.O., Register House Charters: RH6/1107.
 5. Melrose, II, no. 602.

bailie of these estates was granted to Hugh Campbell of Loudoun and his heirs for a period of nineteen years. The actual letter of bailiary is not extant and information regarding this grant is taken from an "obligation" on the part of Campbell to the monastery, dated 8 October 1521.¹

Priory of Monymusk (Augustinian Canons Regular)

Until the sixteenth century the history of the house of Monymusk is obscure. In 1550 the abbey was said to have been ruinous² while eight years later in 1558 it was stated that "the place and religion thereof (are) distroyit";³ yet as late as 1574 there still existed a member of the convent.⁴ The history of the office of bailie is equally as obscure but, as with the history of the abbey as a whole, was much involved with the family of Forbes.

On 9 November 1524 was found⁵ the earliest reference to a bailie of the abbey, Alexander Forbes in Findon, as bailie of the lands of "Petaquhy", which lay in the territory of Monymusk. Then on 24 January 1531 John, prior of the monastery, came to an agreement with James Forbes of Auchintoul, whereby the latter would protect the monastery and convent in return for payment of thirty-one marks.⁶ Forbes in this instance appeared to be bailie in all but name. Finally, in 1539 Lord Forbes, the leading nobleman of that name was

1. Melrose, II, no. 598.

2. Collections for a history of the shires of Aberdeen and Banf, p. 179.

3. The Scottish Correspondence of Mary of Lorraine, ed. A.I. Cameron, no. CCLXXVI.

4. The Register of the Privy Council of Scotland 1569-1578, ed. J. Hill Burton, pp. 389-90.

5. Prot. Bk. Cristisone, no. 48.

6. Ibid., no. 89.

encountered as bailie of the territory of Keig and Monymusk.¹ The latter was appointed by the archbishop of St. Andrews² and it is uncertain whether the regality of St. Andrews held lands separate from the monastery or whether all lands were controlled by the archbishopric.

Abbey of Newbattle (Cistercian Monks)

The chronological cover of the chartulary of the abbey of Newbattle extends only to about the year 1500 with the bulk of the documents relating to the late fourteenth century. No reference to a bailie has been found in that volume.³ Nothing therefore is known of the principal bailiary of the abbey, save that supplied by the fascinating document of 4 January 1452/3, contained in another source. It would appear that Alexander Crawford, nobleman of Glasgow diocese, had come to an arrangement with Thomas, a monk of the abbey, whereby he would approach Alexander Livingstone, knight and councillor to the king, to win royal support for Thomas in his bid to gain the abbacy, and in return Thomas promised to grant Livingstone the bailiary of the abbey. This was clearly a simoniacal transaction for which Thomas now sought and gained papal dispensation.⁴ By this means Thomas secured the abbacy and in all probability, for there is no record of it, Livingstone secured the office of bailie.

The Lands of Crawford

All that is known is that in 1477 John Hunter was bailie of this estate.⁵

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1. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.
 2. Ibid.
 3. Newbattle, passim.
 4. C.P.L., X, pp. 570-1.
 5. Origines Parochiales, I, p. 169.

The Sea-Gate

On 7 June 1541 the abbot and convent confirmed under the great seal a charter granting the hereditary bailiary of the sea-gate on the abbey's lands to Alexander Atkinson with power to hold naval courts (*curias aquaticas*).¹

Abbey of Paisley (Cluniac Monks)

From the beginning of the period under consideration the history of the bailiary would appear to have been associated with the family of Sempill. In 1452 William Sempill of "Elyoeston" acted as bailie in hac parte for the monastery² and in 1460 a certain William Sempill, possibly the same man, was said to have been bailie of the abbey.³ In all probability the connection with the family was maintained throughout the period but the next evidence dates only from 1521 when a letter of attorney was issued by King James V on behalf of the abbot and convent creating William, Lord Sempill, and four other men attorneys of the abbey in all business, complaints, pleas and quarrels which might concern it.⁴ The bailiary of the abbey was only finally bestowed on the family of Sempill on 16 April 1545. On that day the abbot and convent created Robert, Master of Sempill, and his heirs and successors male hereditary bailies of all the lands of the monastery, except those of Kyle which lay in the sheriffdom of Ayr.⁵ The bailiary of the Ayrshire estates of the abbey was held at the time of the Reformation and for a long period before then, by the family of Wallace of Craigie.⁶ The power of the

1. R.M.S., III, 2362.

2. Paisley, pp. 249-50.

3. J. Cameron Lees, The Abbey of Paisley, App. p. lvi.

4. Paisley, p. 218.

5. Ibid., App. II.

6. G. Chalmers, Caledonia, VI, pp. 823.

Sempills was not to be unlimited. On the same day William, Lord Sempill, and his son, Robert entered into an "obligation" to observe the above agreement.¹

Priory of Pittenweem (Augustinian Canons Regular)

In 1523 there is a reference to a certain Thomas Dischington as bailie of Pittenweem but it is impossible to determine whether he was bailie of the burgh or the abbey.² Certainly twenty years later in 1543 William Dischington of Ardross secured the lands of Grangemuir from the abbot in return for his protection and defence of the Church in that dangerous period of Lutheran heresies (*hoc instante tempore periculoso Lutheranis heresibus undique pullulantibus*).³ But despite this the office seems to have been established in the family of Scott of Fawside and Abbotshall. Indeed the same document of 1523 which mentioned Dischington as bailie of Pittenweem cited also Thomas Scott in Abbotshall as one of the arbiters.⁴ This was almost certainly the same Thomas Scott who, as principal bailie of the barony of Pittenweem, held court on 7 February 1540⁵ and who in 1550 gained hereditary possession of the bailiary of the abbey at the instance of the commendator, sir James Balfour.⁶

1. Paisley, App. III.

2. St. Andrews Formulare, I, no. 42. The manuscript itself does nothing to clarify the situation. It speaks only of "Thomas Dischyntoun ballivus de Pettynweme". In either instance the additional information "de burgo" or "de monasterio" might have been expected. However, though it is impossible to determine precisely of which institution he was bailie, I am inclined to feel he was in fact bailie of the burgh. (St. Andrews University Library MS. BX. 1945 L2, fo. 41 recto).

3. Cited in Records of the Priory of the Isle of May, ed. J. Stuart, pp. xxx-xxxi.

4. St. Andrews Formulare, I, no. 42.

5. Records of the Priory of the Isle of May, ed. J. Stuart, p. cv.

6. W. Wood, The East Neuk of Fife, p. 296.

Priory of Pluscarden (Benedictine Monks)

The earliest reference to a bailie of the monastery to come to light was on 18 January 1499/1500 when the prior Robert and the convent with the consent of Andrew, bishop of Moray, and the dean and chapter of Moray created James Dunbar of Cumnock bailie of all the lands of the priory, lying in the sheriffdoms of Elgin, Forres and Nairn, for the duration of his life.¹ The letter of bailiary itself makes no mention of any bailie fee but another document of the same date may well have recompensed, for the prior and convent, in return for Dunbar's activities on their behalf, granted him a tack of certain fishing rights, once again for the duration of his life.² For almost thirty years from this date there was silence with regard to the office, though there is no reason to believe that the family of Dunbar did not retain control over it. A tombstone in the Lady Chapel of the priory, dated 1527, was set up in memory of Alexander Dunbar of Durris, bailie of Pluscarden.³

One other document of interest has come to light. In 1535 James, administrator-general of Dunfermline Abbey, and George, the perpetual commendator of the place, appointed four men, Alexander Dunbar of Durris, Alexander Innes, son and apparent heir of Alexander Innes of that Ilk, Walter Innes of Touchis and William Hay of Mayne bailies and justices-general to hold the justice ayres of the regality of Dunfermline within the lordship of Urquhart,⁴ which was itself united to the priory of Pluscarden.⁵ S.R. MacPhail

1. Pluscardyn, pp. 235-6.

2. P.F. Anson, A Monastery in Moray, The Story of Pluscarden Priory 1230-1948, p. 186; S.R.O., Transcripts of Blairs Archives: RH1/2/305.

3. For a full discussion of the deciphering of the tombstone see Pluscardyn, pp. 172-3.

4. Dunfermline, no. 526.

5. C.P.L., X, pp. 253-4.

asserts that in this document "we have here the source of the claim of the Dunbars of Durris to the title 'ballivus de Pluscarte'".¹

However, the most cursory examination of the text shows that the document refers not to Pluscarden but to Urquhart Priory, and that the appointment was to the offices of the latter place.

Abbey of Scone (Augustinian Canons Regular)

The history of the office of bailie of the abbey of Scone is patchy and incomplete. In the mid-fifteenth century the office of justiciar,² and probably also that of bailie, was held by Alexander Lindsay, Master of Crawford. From his death in 1453³ until the late fifteenth century nothing is known of the lay offices of the abbey. Thomas Blair of Balthayock was probably bailie⁴ before his death in 1493⁵ and was succeeded in 1506 by John Rattray of Rattray and Andrew Abercromby of Inverpeffray, the brother of the abbot, as joint bailies, with the same salary and accommodation as the previous bailie had had.⁶ Rattray died soon after without issue⁷ and in all probability Abercromby continued in the office alone. Finally, on 10 March 1539/40 Thomas Charteris of Kinfauns was bailie of the regality of Scone.⁸

It was with regard to this man that an interesting case was heard before the Lords *of Council*. It would appear that the tenants of

1. Pluscardyn, p. 123.
2. Lord Lindsay, Lives of the Lindsays, I, p. 128, note 2.
3. Peerage, III, p. 21.
4. H.M.C. Rept., IV (Rattray), p. 536.
5. R. Douglas, The Baronage of Scotland, p. 188.
6. H.M.C. Rept., IV (Rattray), p. 536.
7. R. Douglas, The Baronage of Scotland, p. 276.
8. Acts of Council (Public Affairs), p. 484.

Scone had summoned the commendator and bailie of the abbey to compear before the Lords, complaining that both were holding courts, uplifting duties and unlaws and poinding them, with the result that they were being doubly poinded. The Lords decided that the tenants should continue to obey Charteris according to the letter of bailiary of the lordship and regality of Scone.¹

Priory of Strathfillan (Augustinian Canons Regular)

Little is known of the Highland priory of Strathfillan, save that it was both small and poor.² Nothing at all is known of the principal bailiary of the monastery, though one reference to the bailiary of the barony of Auchtertyre, which belonged to the monastery, is extant. On 13 February 1543/4 a charter of John Gray, the prior, with the consent of Gavin, commendator of Inchaffray, and the convent of that place was confirmed under the great seal. This granted James Campbell of Lawers and his heirs and assignees the said barony in feu-ferme, and for the suppression of theft and other crimes within these lands the prior created James and his heirs the hereditary bailies of the estates. The actual grant of the office was made on 28 February 1542.³

Abbey of Sweetheart (Cistercian Monks)

The earliest reference to a bailie of the abbey of Sweetheart was on 31 August 1503 when the abbot Robert granted the bailiary of

1. Acts of Council (Public Affairs), p. 484.

2. Easson, Religious Houses, p. 83.

3. R.M.S., III, 2993.

the abbey to John, fourth Lord Maxwell.¹ Five years later on 16 May 1507 Lord Maxwell and Robert, his heir, were created bailies of all the lands in the barony of "Lowkyndelow" in the sheriffdom of Dumfries and the stewartry of Kirkcudbright for nineteen years.² After the battle of Flodden in the anarchy which ensued the monks of the abbey put themselves under the protection of Lord Maxwell³ who appears to have remained bailie of the place to the end of and beyond the period under consideration. On 10 April 1539 the abbot and convent created Robert, Master of Maxwell, and his heirs male bailies of the lands of Lochindolow and Kirkpatrick in the stewartry of Kirkcudbright for nineteen years⁴ and in February 1544 the barony of Lochpatrick was feued to Robert Maxwell, second son of Lord Maxwell, for services to the abbey.⁵ Finally, in 1548 the abbot James and the convent of the place created Lord Maxwell hereditary bailie of all the lands of the abbey.⁶

Abbey of Tongland (Premonstratensian Canons Regular)

Almost nothing is known of the bailiary of this small abbey save that at some unspecified time, possibly before 1516, the bailiary became hereditary in the Maxwell family⁷ and at some time in the period 1513 to 1544 Robert, fifth Lord Maxwell, was the bailie of the abbey.⁸

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1. Carlaverock, I, p. 165.
 2. Ibid.
 3. G. Chalmers, Caledonia, V, p. 306.
 4. Carlaverock, II, pp. 468-9, no. 88.
 5. G. Chalmers, Caledonia, V, p. 306.
 6. Ibid.
 7. G. Chalmers, Caledonia, V, p. 303.
 8. Carlaverock, I, p. 175.

Priory of Urquhart (Benedictine Monks)

It is known that on 12 March 1453/4 Pope Nicholas V, on the petition of the Benedictine prior of Urquhart, consented to the seperation of Pluscarden Priory from the order of Val des Choux, made it a dependency of Dunfermline and united it to Urquhart.¹ It would appear that the bailiaries of the two houses were not united for in 1535 James, administrator-general of Dunfermline, and George, the commendator, appointed four men, Alexander Dunbar of Durris, Alexander Innes, son and apparent heir of Alexander Innes of that Ilk, Walter Innes of Touchis and William Hay of Mayne bailies and justices-general to hold the justice-ayres of the regality of Dunfermline within the lordship of Urquhart,² which was united to the priory of Pluscarden.

1. C.P.L., X, pp. 253-4.

2. Dunfermline, no. 526.

Section 1b The United Order of the Knights Templar
 and Hospitaller

The united order¹ appears to have possessed lands and tenements throughout Scotland which, though possibly great in bulk, give the impression of having been widely scattered. This necessitated the employment of a considerable number of bailies to superintend their administration and some form of regional organisation was in existence to deal with this. A number of these areas and the temple bailies who were set over them have been identified.

North of the River Tay the sheriffdom of Angus and Gowry constituted one administrative area and on 1 November 1494 was under the control of Thomas Skougall as temple bailie.² Further south lay the shire of Fife where on 17 August 1490 Alexander Spens of Pittencrieff was bailie.³ The earldom of Lennox was similarly found to be a suitable administrative region. Walter Buchanan of that Ilk was bailie of the temple lands in Lennox from January 1478/9⁴ until at least 1493 when he had as his depute, Robert Buchanan.⁵ Moving southwards the Constabulary of Haddington constituted another bailiary. In 1458 James Cockburn was bailie.⁶ Eighty years later the same administrative division was still in existence when in November 1532 Thomas Irvine was bailie.⁷ Some three years later he appeared as templar-bailie in the sheriffdom of Berwick.⁸ The last

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1. For brief history of the order see above p. 91 note 1.
 2. S.R.O., Rossie Priory: GD48/22/4.
 3. S.R.O., Register House Charters: RH6/558.
 4. S.R.O., Fraser: GD86/30; Register House Charters: RH6/478.
 5. H.M.C. Rept., Various Collections, V, p. 84.
 6. Newbattle, nos. 287, 288; S.R.O., Newbattle: GD40/I/Box 3/71.
 7. Laing Chrs., no. 388; MS. 2180 Box 55.
 8. Ibid., no. 398; MS. 2379 Box 61.

administrative division to come to light is that of the sheriffdom of Ayr. In 1513 reference was made to a templar-bailie for that region¹ and in 1532 Charles Campbell held the temple courts in the burgh of Ayr in his position as bailie.² Though only six of these temple bailiaries have been discovered, in all probability the entire kingdom was sub-divided into bailiaries which for convenience sake appear generally to have coincided with the administrative divisions of the kingdom.

This order, as with other ecclesiastical institutions, appears to have found it convenient to appoint burgesses as their bailies for work within the Scottish burghs where much of their lands lay. In February 1496/7 James Ross, burgess of Edinburgh, was the temple-bailie of the preceptor of Torphichen in Edinburgh.³ In March 1533/4 Thomas Irvine and Henry Pollart were temple-bailies in the burgh of Linlithgow⁴ and in April 1541 Henry Pollart was again bailie.⁵

The principal task of the temple-bailies would appear to have been that of granting sasine of lands and properties⁶ but temple-courts were also held and it was the temple-bailie who presided over them. In January and February 1459 temple-courts were held at Liston by Edward Livingstone, the temple-bailie. The matters considered were much the same as have been observed elsewhere. Cases concerning ploughing rights and unjust occupation were heard and men were fined for quarrelling in court.⁷ Evidence for the holding of

1. Prot. Bk. Ros, no. 56.

2. Ibid., no. 1305.

3. Prot. Bk. Young, no. 868.

4. Prot. Bk. Johnsoun, no. 72.

5. Ibid., no. 255.

6. For example, Laing Chrs., no. 388; Prot. Bk. Ros, no. 56; Prot. Bk. Young, no. 868; S.R.O., Register House Charters: RH6/478, RH6/558.

7. H.M.C. Rept., Various Collections, V, pp. 80-82; S.R.O., Duntreith: GD97/3/10).

another temple court at Ayr in 1532 is also extant. In this instance some dubiety was cast by one participant upon the partiality of the bailie, Charles Campbell.¹ Temple bailies do appear to have fulfilled a role identical to their counter-parts in the monasteries of Scotland.

1. Prot. Bk. Ros, no. 1305.

Section 1c The Orders of Friars

Franciscan Friars of Haddington

Information regarding this bailiary is scanty. All that is known is that on 9 April 1490 James Cockburn of Newbigging was the "balze to the minister, provinciale wardane and convent of the freris minor of Hadingtoun".¹

Dominican Friars of Perth

On 31 May 1520 Andrew Bunch was said to be a bailie of the burgh of Perth "ac ballivus dicti nostri (the friars') loci".² Some years later on 19 April 1533 John Peebles, burgess of Perth, was similarly cited³ and finally, on 13 April 1546 Robert Eviot in Mireton was called bailie of the friars and convent of the friars preacher of the burgh of Perth.⁴

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1. S.R.O., Miscellaneous: GD1/39/5/2.
 2. Perth Blackfriars, p. 123.
 3. Ibid., p. 125.
 4. Ibid., app. 16, p. 211.

Section 1d The Houses of Nuns

Nunnery of Eccles (Cistercian Nuns)

The earliest definite reference¹ to a bailie of the nunnery of Eccles was in August 1522 when George, fourth Lord Home, was served heir to the office of bailie which had been forfeited by his brother, Alexander, third Lord Home,² when he was convicted of treason and was executed on 8 October 1516.³ However, the same document states that the office, presumably hereditary, had in fact been conferred by the prioress and convent upon the father of George Home, namely Alexander, second Lord Home. The date of his creation as bailie is not given but the office must have been held by the family of Home from at least 1506 when the third Lord succeeded his father of the same name.⁴ Certainly, George was hereditary bailie of the place. The office remained in the family and on 16 April 1551 Alexander, fifth Lord Home, was served heir to his father, George, in the office of bailie of all the lands of the nunnery.⁵ Continuity of succession in the family of Home may, therefore, be traced from at least 1506 and almost certainly considerably earlier, until 1552 and almost certainly considerably later.

1. A document dated 1509 is in existence which shows a certain Alexander, Lord Home, to have been bailie of the nunnery. William Fraser in his calendar claims that this date is erroneous, placing it between 1564 and 1570 but he gives no evidence to support his assertion. (H.M.C. Rept., XII, pt. 8 (Home), p. 130, no. 137). It has proved impossible to date it from the figures mentioned in the text. It could refer either to Alexander the third, or fifth, Lords Home.

2. H.M.C. Rept., XII, pt. 8 (Home), p. 128, no. 130.

3. Peerage, IV, p. 456.

4. Ibid., p. 454.

5. H.M.C. Rept., XII, pt. 8 (Home), p. 97, no. 24.

Nunnery of Elcho (Cistercian Nuns)

Rather unusually the history of the bailiary of the nunnery of Elcho was that of two families, the Oliphants of Gask and the Wemyss of that Ilk. In 1470 the prioress, Margaret, and the convent of Elcho conferred the office of bailie of all the lands of the nunnery in Scotland on Laurence, Lord Oliphant, for the duration of his life.¹ After this date silence reigned with regard to the bailiary, though presumably it was retained in the family of Oliphant at least until the death of that incumbent some time before 8 April 1500.² However, one authority claims that prior to the Reformation it was the lairds of Wemyss who were the hereditary bailies of the nuns of Elcho.³ For how long this had been the case it is impossible to say but it is certain that on 20 November 1552 Sir John Wemyss of that Ilk was granted the hereditary bailiary of that priory.⁴

Nunnery of Haddington (Cistercian Nuns)

Information regarding the bailiary of the nunnery of Haddington dates only from the 1530s. As might be expected of a nunnery which lay in the very heart of Hepburn country, the bailiary was secure in the hands of that family. On 12 October 1530 Louk Hepburn was said to be "bailze to the prioress of Haidintoun",⁵ while on 17 June 1531, just one year later, a certain John Hepburn was bailie.⁶

1. Oliphant, pp. 16-17, no. 28.

2. Peerage, VI, p. 541.

3. Wemyss, I, p. xxiv.

4. Ibid., p. 136, and note 2.

5. S.R.O., Prot. Bk. Symson: B30/1/2, fo. 14 verso.

6. S.R.O., Prot. Bk. Symson: B30/1/2, fo. 23 verso.

From this date until the Reformation there was silence as regards the bailiary of the house, but there is no reason to believe that the Hepburns ever lost control over it.¹ At the time of the Reformation the offices of both bailie and bailie-depute were held by the Hepburns, Lord Bothwell being bailie with Patrick Hepburn of Beinstoun as his bailie-depute.² Hepburn mastery over the office was continued and complete.

Nunnery of North Berwick (Cistercian Nuns)

The earliest specific reference to a member of the family of Home acting as bailie of the nunnery of North Berwick was on 2 February 1556/7 when mention was made of the prioress of the nunnery and "Alexander Home, hyr balze".³ From then nothing is known until in March 1569 Alexander Home secured a grant of the bailiary of the nunnery.⁴ However, it is almost certain that a Home had been bailie for many years before, for on 14 March 1545/6 dame Margaret Home, prioress of the house, and the auditors of the convent granted discharge to Alexander Home, her brother, of intromissions with the rents and profits of the house.⁵ Certainly all the evidence supports

1. It has been stated that in 1533 a certain Andrew Kerynton was bailie of the house (G. Donaldson, 'The Cistercian Nunnery of St. Mary, Haddington in the sixteenth century', Transactions of the East Lothian Antiquarian and Field Naturalists' Society, V (1952), p. 21) which might lead to the supposition that for a period the Hepburns had lost control of the bailiary, but an examination of the source indicates that Kerynton was merely a specially constituted bailie. (S.R.O., Prot. Bk. Symson: B30/1/2, fo. 48 recto).
2. S.R.O., Books of Assumption: E48/1/1, fo. 166 verso.
3. D.B. Swan, The Monastery of North Berwick, p. 7.
4. Ibid., p. 6.
5. S.R.O., Home of Marchmont: GD158/250.

the conclusion of one monastic historian that "North Berwick nunnery became virtually the family benefice of the Humes of Polwarth".¹

1. Easson, Monastic Houses, p. 37.

Section 2a The Archbishopsrics

The Bishopric and Archbishopric of Glasgow

Information concerning the principal bailiary of the bishopric, and later the archbishopric, of Glasgow is not abundant. The earliest reference to a bailie of the barony of Glasgow was on 31 May 1487 when Patrick Blackadder as bailie gave sasine of lands.¹ From this date until 1545 nothing more is known, but in that year Gavin Dunbar, archbishop of Glasgow, with the consent of the chapter created James, earl of Arran, and his heirs bailies and justices of the barony and regality of Glasgow for a period of nineteen years.²

The Barony of Carstairs

All that is known of the bailiary of this barony is that about the year 1517 Hugh, Lord Somerville, was in possession of the office.³

The Lands of "Colinhath Rig"

In this rather unusual instance a cleric was appointed to the bailiary of these lands in 1471. In that year, Andrew, bishop of Glasgow, appointed Roger of Cairns, vicar of Dumfries, as bailie. The grant of the office specifically revoked all previous commissions concerning these lands to any person, and the terms of the grant differed little from the norm.⁴

The Bishopric and Archbishopric of St. Andrews

Not over much is known of the principal bailiary of the bishopric, and later archbishopric, of St. Andrews. On 30 October

1. H.M.C. Rept., X, pt. 1 (Stirling-Maxwell), p. 66, no. 20.
2. Ibid., pt. 6 (Hamilton), p. 221, no. 161.
3. Origines Parochiales, I, p. 124.
4. S.R.O., Broughton and Cally: GD10/5.

1459 Robert Graham of Old Montrose (Aldmonros) was bailie of the regality.¹ In the early years of the sixteenth century the bailiary lay in the hands of the family of Learmonth of Dairsie, the family who were to retain possession of the office throughout the period under consideration and beyond, save for a brief spell during the episcopates of the Betouns. On 5 May 1506 an inquest was held before David Learmonth, the chamberlain and bailie of Alexander, archbishop of St. Andrews,² and on 23 January 1511/2 the same man again appeared as chamberlain.³ In all probability the Learmonths retained possession of the bailiary until the Betouns came to the archbishopric in 1521.⁴ Certainly on 15 January 1535 John Betoun of Creich was justice-general of the regality⁵ and from about the year 1541 to 1544 Archibald Betoun of Capildray held the joint office of steward and bailie of the regality.⁶ On the death of Cardinal Betoun, if not before, the Learmonths regained control of the office of bailie. On 17 October 1549 Patrick Learmonth of Dairsie was mentioned as being the bailie of John, archbishop of St. Andrews,⁷ and on 4 April 1562 the archbishop granted the same man possession of the offices of steward, bailie, justiciar and coroner of the regality.⁸

The Lands of Bishop-and Muckartshires

On 8 June 1507 Robert Douglas of Lochleven was bailie of Bishopshire⁹ and the office, later united to the bailiary of

1. S.R.O., Dalhousie: GD45/27/80.

2. H.M.C. Rept., VII, pt. 2 (Southesk), p. 721, no. 38.

3. S.R.O., Dalhousie: GD45/13/303.

4. Watt, Fasti, p. 298.

5. Wemyss, II, pp. 156-7, no. 100.

6. M.H.B. Sanderson 'Kin, Freindis And Servandis', The men who worked with Archbishop David Beaton, Innes Review, XXV (1974), p. 35.

7. S.R.O., Blebo: GD7/1/7.

8. H.M.C. Rept., III (Glasgow), p. 405.

9. S.R.O., Morton: GD150/956.

Muckartshire, was still held by that family in the years 1516 to 1521. On that date the archbishop wrote to the bailie, offering suggestions as to what should be done about the punishment of the culprit, guilty of the slaughter of the archbishop's serjeant.¹ On 10 March 1524/5 James, archbishop of St. Andrews, issued letters of bailiary to Robert Douglas of Lochleven, creating him bailie of Bishop- and Muckartshires for an unspecified period, presumably at the will of the archbishop.² On 31 January 1537/8 the grant was renewed for a space of three years by Archbishop James Betoun.³ This renewal was probably made at the instigation of David Betoun who had just been appointed co-adjutor to his uncle in the archbishopric on 5 December 1537.⁴ The period of tenure must have been further extended for Douglas was still bailie of these shires in 1539,⁵ 1541⁶ and 1542.⁷ In the period under consideration the hold of the family of Douglas over these bailiaries was complete.

The Lands of Lethnot and Ellon

At some time during the 1520s James, archbishop of St. Andrews, appointed Patrick Cheyne of Esslemont joint bailie and steward of the regality of Ellon.⁸ He was still bailie in 1542.⁹ For some reason when the bailiary is next heard of, now united to that of Lethnot, the right of appointment had passed to the abbot of Kinloss who granted possession of the joint bailiary to the same

1. S.R.O., Morton: GD150/1725.

2. S.R.O., Morton: GD150/957.

3. S.R.O., Morton: GD150/959.

4. Watt, Fasti, p. 298.

5. Rentale Sancti Andree, ed. R.K. Hannay, p. 92.

6. Ibid., p. 121.

7. Ibid., p. 137.

8. S.R.O., Errol: GD175/340.

9. A.Y. Cheyne, The Cheyne Family in Scotland, p. 76.

Patrick,¹ together with his son Thomas and his heirs, for a period of five years.²

The Lands of Stow

Only one document concerning the bailiary of the barony of Stow, a grant of the office, is extant. About the year 1543 David, archbishop of St. Andrews, and the chapter created John, Lord Borthwick, and his heirs male bailies of the barony for a period of nineteen years.³

The Lands of Tynninghame

On 9 July 1535 Archbishop James Betoun and the chapter of St. Andrews granted tenure of the bailiary of Tynninghame to James Stewart, the eldest bastard son of King James V and his heirs.⁴ The office was to be held in feu-ferme and a complicated and comprehensive destination in the case of failure of heirs followed, culminating in the possibility of the bailiary being held by a female descendant, though admittedly this was to be only if all else failed. Stewart at this time can have been only in his early teens. The grant was followed on 11 December 1536 by the issue of papal letters instituting the establishment of a commission to determine whether or not the grant was to the "utility" of the Church.⁵ Two years later on 18 and 20 February 1537/8, presumably after the commission had confirmed the grant, Stewart leased the lands of Tynninghame and the bailiary for a period of nine years to

1. Patrick Cheyne survived until 1560. (W.D. Cheyne-Macpherson, Cheyne of Inverugie, Esslemont, Arnage and their Descendants, p. 20).

2. Kinloss, pp. 149-50.

3. St. Andrews Formulare, II, no. 466.

4. Haddington, II, pp. 254-5, no. 35¹.

5. Ibid., pp. 255-6, no. 353.

Robert Lauder of the Bass. The office, somewhat surprisingly, was to be held by Robert and his heirs not of the Church, though the archbishop of St. Andrews was to receive the dues of the lands, but of Stewart and his heirs.¹ Lauder already had a connection with the lordship, for Archbishop Andrew Forman had leased these lands to the same man for nineteen years in 1517.² Be that as it may, it seems that the process for the transference of the office of bailie was under-way. It was completed in 1542 when Cardinal David Betoun appointed commissioners to receive the resignation of James Stewart and thereafter, with the consent of the archiepiscopal chapter, to feu the lands and bailiary to Robert Lauder of the Bass and his heirs male.³

1. Haddington, II, pp. 256-7, no. 355.

2. J.S. Smith, The Grange of St. Giles, p. 203.

3. Haddington, II, p. 258, no. 357.

Section 2b The Bishoprics

The Bishopric of Aberdeen

Evidence concerning the principal bailiary of the bishopric of Aberdeen is slight and dates only from 6 May 1524 when John Rutherford, knight, as bailie of the bishopric held court with Alexander Innes of Drumbeth.¹ Nothing more is heard of the office until 31 May 1535 when the court of William, bishop of Aberdeen, was held by William Lyon of "Colmalegy" as bailie.² Finally, about the year 1549 William Gordon, bishop of Aberdeen, with the consent of the dean and chapter, appointed his brother,³ George, earl of Huntly, and his heirs and successors hereditary bailies of all the lands and annual rents pertaining to the patrimony of the bishopric.⁴

The Bishopric of Brechin

The history of the bailiary of the bishopric of Brechin may be traced in appreciable detail in the second half of the fifteenth century and supplies the only known information concerning an attempt on the part of the Church to oust its bailies from that office.

The earliest reference to a bailie of the bishopric in the period under consideration was on 16 December 1450 when David Dempster

1. The two laymen were appointed to hold court in an ad hoc capacity, but the former was called bailie of the bishop and the Latin gives no sense of the temporariness of that office. The court was held "per Johannem Ruthyrfurd militem ballivum episcopatus eiusdem et Alexander Innes de Drumbeth specialiter constitutos ad effectum presentem". (Aberdeen, I, p. 389).

2. Prot. Bk. Cristisone, nos. 152, 153, 154.

3. Peerage, IV, p. 533.

4. Aberdeen, II, pp. 306-10.

of Auchterless was said to be bailie of Bishop John and his Church.¹ He retained the office for the next nine years but at this juncture a move was made to oust him from his position. On 28 January 1459/60 John Schoriswood, brother of the bishop, George, and Mr. David Guthre of Kincadrum attempted to hold a chamberlain ayre in the name of the bishop. Dempster claimed to be bailie and chamberlain and warned that no man should attempt to execute his office. He stated categorically that he would not tolerate them holding an ayre unless it were affirmed in his name and this they refused to do.² The bailie it seems had won the first round but the gauntlet had been cast down and a further struggle was to ensue. Four years later on 14 May 1464 the office was still in that family. Walter Dempster was by then bailie.³ However, on 6 March 1464/5 Patrick, bishop of Brechin, brought the matter before the Lords of Council. He charged that Walter and his mother had wrongly occupied the offices of bailie and chamberlain of the bishopric. The Lords decided that the alienation was prejudicial to the Church and that the offices were to be returned to the possession of the bishop and his church.⁴ Yet another three years were to pass before the Dempsters were legally expelled from the office. On 4 May 1468 John Dempster of Auchterless resigned the offices at issue into the hands of the bishop of Brechin.⁵ This, it might have been assumed, was an end to the matter but as late as 23 June 1497 John Dempster was still battling to regain the lands and offices.⁶

1. Brechin, II, no. XLIII.

2. Ibid., I, no. 90.

3. Ibid., II, no. LVI.

4. Ibid., no. LVIII.

5. Ibid., no. LX.

6. Ibid., no. LXXX.

The outcome of the dispute is unknown but the offices may have passed into the hands of the family of Ogilvy of Airlie. The biographer of the family of Ogilvy claims that James, first Lord Ogilvy, was appointed bailie of the regality of Brechin,¹ that James, the third Lord, was commissioned to organise its forces and superintend its wapenshaws² and that his son, the fourth Lord, succeeded to the bailiary on the death of his father.³ It is unfortunate that Wilson fails to cite the sources for these statements for no reference to an Ogilvy serving as bailie has been discovered in the course of this present survey. Though there is steady reference to the family in the register of the bishopric,⁴ there is no indication that an Ogilvy was ever bailie of the regality. This is not however to refute entirely Wilson's assertion, for in theory at least the family of Dempster had been removed from the office of bailie by 1468. It is quite feasible that an Ogilvy did secure possession of this bailiary and that Wilson was privy to information not now extant.

The Bishopric of Dunkeld

Little is known of the principal bailiary of the bishopric of Dunkeld. On 1 May 1510 Thomas Towers as bailie of the barony of Dunkeld within the bounds of Auchtertoul rendered his accounts for 1509⁵ and on 7 June 1542 a certain John Bannerman was said to be bailie of what had by now become the regality of Dunkeld.⁶ Apart

1. W. Wilson, The House of Airlie, I, p. 78.

2. Ibid., p. 89.

3. Ibid., p. 95.

4. Brechin, I, nos. 69, 75, 77, 83, 94; II, nos. XLII, XCIX, CCXXX, CCLXXVI, etc.

5. Rentale Dunkeldense, ed. R.K. Hannay, p. 268.

6. Laing Chrs., no. 461; MS. 690, Box 20.

from these two men no other bailies have been discovered.

Barony of Aberlady

The barony of Aberlady, in north-west Haddingtonshire, belonged to the bishopric. On 15 December 1511 John Broun, laird of Colston, was avowedly bailie of the barony and rendered his accounts at Dunkeld.¹ By 25 January 1515 the office had passed to a member of another local family, Robert Lauder of the Bass, who on that date appeared before the Lords of Council for some unspecified reason.²

The Bishopric of Galloway

Nothing is known of the bailiary of the bishopric of Galloway save that on 25 March 1516 David, bishop of Galloway, with the consent of the chapter of Whithorn constituted Gilbert, earl of Cassilis, bailie of all the lands belonging to the bishopric in the sheriffdom of Wigton and the stewartry of Kirkcudbright with the grant also of the office of Captain, Constable and Keeper of the manor and place of Loch of Inch in the Rinns of Galloway.³ At no point was it specifically stated that the grant was to be hereditary but the general tenor of it leads to the conclusion that this was the case.⁴

The Bishopric of Moray

In 1445 it was stated with reference to wapenshaws and hosting that the inhabitants of the kirklands of Moray should ride and pass for the defence of the realm only under the command of the episcopal bailies.⁵

1. Rentale Dunkeldense, ed. R.K. Hannay, pp. 258-60.
2. Acts of Council (Public Affairs), p. 29.
3. S.R.O., Ailsa: GD25/1/239.
4. Gilbert was created bailie for "ws and oure successors".
5. Moray, no. 189.

Section 2c The Cathedral Chapters

The Cathedral Chapter of Glasgow

Only one reference has been found to a bailie of this chapter. On 2 May 1494 John, Lord Sempill, was avowedly bailie of the dean and chapter of the church of Glasgow (ballivus dictorum decani et capituli).¹

The Cathedral Chapter of St. Andrews

There are two references extant to the bailies of the priory of St. Andrews which, like that of Whithorn, served also as a cathedral chapter. On 8 November 1499 William Mudie was said to be bailie-principal of the prior and convent of the monastery of St. Andrews² and on 27 July 1540 the bailies of the priory of St. Andrews were mentioned in a case being heard before the Lords of Council.³

The Cathedral Chapter of Whithorn

The priory of Whithorn served as a cathedral chapter in the same way as that of St. Andrews. Only a single reference to a bailie of the priory has been found. On 5 September 1487 John Kennedy of "Knokrewauch" or "Knockerbaulk" was bailie of Patrick (Vaus),⁴ who was prior of Whithorn, and the convent of that place.⁵

1. Glasgow, II, no. 467.
2. S.R.O., St. Andrews Charters: B65/22/156.
3. Acts of Council (Public Affairs), pp. 492-3.
4. G. Donaldson, 'The Bishops and Priors of Whithorn', Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society, 3rd Series, XXVII (1950), p. 146.
5. S.R.O., Ailsa: GD25/1/147.

Section 2d The Collegiate Churches

Collegiate Church of Lincluden

Nothing is known of the bailiary of Lincluden, save that it was held by Robert, fifth Lord Maxwell, the grant of the office being made at some time in the period between 1513 and 1544.¹

Collegiate Church of Methven

Evidence concerning the bailiary of the collegiate church of Methven is scarce and covers only a period of six years. On 18 November 1499 George Moncrieff of Tippermalloch, his son, Robert, and sir John Tyrie, provost of the church, were created joint bailies of the lordship of Methven for five years.² When this mandate was renewed, however, on 14 March 1505, the office at this juncture was vested in Tyrie alone and was granted for yet another five years.³ The latter would appear to have successfully ousted his rivals from the office. Tyrie remained provost of the church until 1519⁴ and probably succeeded in retaining also the office of bailie.

1. Carlaverock, I, p. 175 and note 1.

2. Methven, p. 34.

3. Ibid.

4. Watt, Fasti, p. 368.

Section 2eThe Parish

Only one reference to a bailie of the lands of a parish church has been discovered. In 1531 Mr. James Dingwall, vicar of the parish church of Wemyss,¹ created Sir James Colville of East Wemyss bailie of the church lands and tenants of Wemyss for five years.²

The ChapelChapel of St. Mary, Stirling

In February 1477/8 John Crag was the bailie of the alter of St. Mary which was presumably situated in the burgh of Stirling.³ On that occasion he represented the chaplain in a legal dispute.⁴

Chapel of Meiklefolla

In 1541 David Cruikshank of Darley was the bailie of sir William Silver, chaplain of Meiklefolla, and held court on the latter's behalf.⁵

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1. Charters of the Collegiate Churches in Mid-Lothian, p. 108, no. 40.
 2. Ibid., pp. 107-8, no. 39.
 3. The reference is taken from the protocol book of Sir James Darow 1469-84, which is also known as the protocol book of the burgh of Stirling. (The Scottish Antiquary, X (1896), p. 141).
 4. Ibid.
 5. Prot. Bk. Cristisone, no. 326.

Section 2f The Hospitals

Hospital of Eassie

All that is known of this institution is one rather violent incident in its history. John Flemming, priest of the chapel or hospital of Eassie, set the hospital to farm for a number of years to Walter, Thomas and Alexander Lyon, second Lord of Glamis, the "protector and special bailiff" of the establishment. Presumably at some time in 1475 armed men, led by John Ogilvy of St. Andrews diocese, forced their way into the hospital and in the ensuing fight a number of men were killed.¹

Hospital of Kingcase

Before 30 January 1515/6 the "custody, government and bailiary" of the house and hospital of Kingcase was in the hands of Hugh Wallace of Newton. On that date he resigned the bailiary to the king, who re-granted it in feu-ferme to the latter's brother, Adam Wallace, and his heirs.² On 11 May 1530 Adam sold (vendite) the office to William Hamilton of "Maknariston" and his heirs for two hundred and forty merks. Adam and his heirs had regress if the sum were repaid within seven years.³ The Wallaces do seem to have repaid the debt, for when the bailiary of the hospital is next heard of, on 30 July 1535, a certain Hugh Wallace of Newton (beside Ayr) was said to be the bailie.⁴

1. Register of Supplications, vols. 734, fo. 252 recto; 735, fo. 248 recto.

2. R.M.S., III, 62.

3. Ibid., 942.

4. Acts of Council (Public Affairs), p. 443.

Hospital of St. Leonard the Abbot, Lasswade.

In August 1500 a certain Oliver Sinclair was bailie of the chaplain of the chapel of the Hospital of St. Leonard and gave sasine of lands.¹

Hospital of Trailtrow

All that is known of the hospital of Trailtrow is that Robert, Lord Maxwell, was bailie in the post-Flodden period.²

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1. Prot. Bk. Young, no. 1080.
 2. Carlaverock, I, p. 175.

Section 3a

The Ecclesiastical Immunity of Tain

Though it was only in 1535 that parliament declared that all ecclesiastical girths should have set over them bailies who would act as go-betweens,¹ as early as 1458 John McCulloch was bailie of the girth of "Sanct Duthowis".² In 1483 reference was made to a certain William Johnson as bailie of Tain³ and on 3 December 1494 the Lords Auditors addressed a letter to the bailies of Tain to enter a tenant into her lands.⁴ In 1512 the office became hereditary in the family of McCulloch. On 16 August of that year King James IV granted the office under the great seal to William McCulloch of Plaids and his heirs. The gift of this bailiary was in the hands of the king in his position as the earl of Ross.⁵ The office remained with the family until at least 1541 when Thomas McCulloch, the son and heir of the deceased William, was granted the office.⁶ However, at the time of the Reformation the McCullochs appear to have lost possession of the office, for in 1566 the hereditary office was held by a member of the family of Innes.⁷

1. A.P.S., II, p. 348, cap. 30.

2. Origines Parochiales, II, pt. 2, p. 429.

3. Ibid., p. 431.

4. Ibid.

5. R.M.S., II, 3763.

6. Origines Parochiales, II, pt. 2, p. 430.

7. J. Durkan, The Sanctuary and College of Tain, Innes Review, XIII (1962), p. 151.

Alphabetical List of Bailies cited in the thesis

Source references may be found in Appendix 1 under the appropriate ecclesiastical institution. Biographical information may be found for many of the bailies in Chapter Six. The page numbers given after a number of the entries refer to the above chapter. Bailies-depute and justiciars have also been included in the list but are specifically designated as such. Where no designation is given the figure was a full bailie.

Abercromby of Inverpeffray, Andrew; Scone 1506.

Atkinson, Alexander; Newbattle (sea-gate) 1541.

Bannerman, John; Dunkeld 1542.

Betoun of Capildray, Archibald; Dunfermline 1530s; St. Andrews 1541-44. (p. 127).

Betoun of Creich, John, Justiciar; St. Andrews 1535. (p. 142).

Blackadder of Tullialan, Patrick; Culross 1495; Glasgow 1487. (p. 128).

Blackwood, Adam, Bailie-depute; Dunfermline 1530s. (p. 168).

Blair of Balgillo, William, Bailie-depute; Coupar-Angus 1542.

Blair of Balthayock, Thomas; Scone pre-1493. (p. 130).

Borthwick, John, sixth Lord; St. Andrews (Stow) 1543. (pp. 148-9).

Broun, Oliver; Holyrood 1513, 1520.

Broun of Colstoun, John; Dunkeld (Aberlady) 1511. (p. 149).

Buchanan of Buchanan, Walter; Temple (Lennox) 1479-93. (p. 139).

Buchanan (of Leny?), Robert, Bailie-depute; Temple (Lennox) 1493. (pp. 139-40).

Bunch, Andrew; Perth Blackfriars 1520.

Cade, Henry, Bailie-depute; Dunfermline 1530s.

Cairns, Roger; "Colinhath Rig" 1471. (p. 145).

Campbell, Charles; Temple (Ayr) 1532.

Campbell, Archibald, second earl of Argyll; Culross 1495.

- Campbell of Lawers, James; Strathfillan (Auchtertyre) 1544.
- Campbell of Loudoun, Hugh; Melrose (Kylesmuir and Barmuir) 1521.
(p. 134).
- Charteris, Margaret, Bailie-depute; Coupar-Angus (Murthly) 1487.
- Charteris of Kinfauns, Thomas; Scone 1540. (p. 131).
- Cheyne of Esslemont, Patrick, sixth laird; St. Andrews (Lethnot and Ellon) 1520, 1542. (p. 132).
- Cheyne of Esslemont, Thomas, seventh laird; Deer 1539. (p. 132).
- Christie, Walter, Bailie-depute; Dunfermline 1530s. (p. 168).
- Cockburn, James; Temple (Haddington) 1458. (p. 139).
- Cockburn of Newbigging, James; Haddington Friars 1490. (p. 138).
- Colville of East Wemyss, James; Dunfermline 1530s; Wemyss parish church 1531. (pp. 127-8).
- Cooper, Alan, Bailie-depute; Dunfermline 1530s. (p. 168).
- Couper, David; Dunfermline 1502.
- Crag, John, Altar of St. Mary; Stirling 1478.
- Cranston, Patrick; Coldingham 1519.
- Crawford in Bonnington, John; Holyrood 1509.
- Creichtoun, John, Bailie-depute; Dunfermline 1530s.
- Cruikshank of Darley, David; Chapel of Meiklefolla 1541.
- Cumming of Altyre, Alexander, Bailie-depute; Kinloss 1544. (pp. 166-7).
- Cumming of Couttie, John, Bailie-depute; Coupar-Angus 1539, 1542.
(pp. 165-6).
- Dawson of Leith, John; Holyrood 1489.
- Dempster of Auchterless, David; Brechin 1450. (pp. 143-4).
- Dempster of Auchterless, John; Brechin 1468, 1497. (pp. 143-4).
- Dempster of Auchterless, Walter; Brechin 1464. (pp. 143-4).
- Dischington, Thomas; ?Pittenweem 1523.
- Douglas, Archibald, fourth earl of Douglas; Coldingham 1414.
- Douglas of Lochleven, Robert, fourth laird; St. Andrews (Bishop- and Muckartshires) 1507. (p. 147).

- Douglas of Lochleven, Robert, fifth laird; St. Andrews (Bishop- and Muckartshires) 1525. (p. 147).
- Douglas of Lochleven, Robert, sixth laird; St. Andrews (Bishop- and Muckartshires) 1538, 1542.
- Douglas, James, third earl of Morton; Dunfermline 1512. (p. 162).
- Drummond, John, first Lord; Inchmahome 1491.
- Duby, Antony, Bailie-depute; Coupar-Angus 1518.
- Dunbar of Cumnock, James; Pluscarden 1500. (p. 132).
- Dunbar of Durris, Alexander; Pluscarden pre-1527.
- Durie, William, Bailie-depute; Dunfermline 1530s. (p. 168).
- Durie of Durie, Robert; Dunfermline pre-1547.
- Erskine, James, brother of John, fifth Lord Erskine; Inchmahome 1531. (p. 124).
- Eviot in Mireton, Robert; Perth Blackfriars 1546. (p. 138).
- Forbes, William, seventh Lord; St. Andrews (Keig and Monymusk) 1539. (pp. 146-7).
- Forbes in Findon, Alexander; "Petaquhy" in Monymusk 1542.
- Forbes of Towie, William; Coupar-Angus (Murthly) 1493.
- Frog in Inveresk, William, Bailie-depute; Dunfermline 1530s (p. 168).
- Fyne, Thomas, Bailie-depute; Dunfermline 1530s. (p. 168).
- Gordon, George, fourth earl of Huntly; Aberdeen 1549. (p. 143).
- Gourlay, John, Bailie-depute; Dunfermline 1530s. (p. 168).
- Graham of Old Montrose, Robert; St. Andrews 1459.
- Grant of Freuchie, James, third laird; Kinloss 1539. (p. 133).
- Halkett of Pitfirrane, Patrick, Dunfermline pre-1543.
- Hamilton, Andrew; Holyrood 1530.
- Hamilton, James, second earl of Arran; Glasgow 1545. (pp. 163-4).
- Hamilton, James, first Lord; Kelso (Lesmahagow) 1456. (pp. 135-6).
- Hamilton of "Bradthirst", John; Arbroath ("Athkarmoure") 1476.

Hamilton of Finnart, James; Kelso (Lesmahagow) 1532. (p. 136).

Hamilton of "Maknariston", William; Kingcase Hospital 1530.

Hepburn, James, fourth earl of Bothwell; Haddington Nunnery 1560.

Hepburn, Patrick, first earl of Bothwell; Dunfermline 1502.

(pp. 161-2).

Hepburn, John; Haddington Nunnery 1531.

Hepburn, Louk; Haddington Nunnery 1530.

Hepburn of Beinstoun, Patrick, Bailie-depute; Haddington Nunnery 1560.

Hepburn of Whitsome, Alexander; Holyrood 1490.

Herries of Derry, David, Bailie-depute; Arbroath 1476. (p. 167).

Home, Alexander, first Lord, Coldingham 1465, 1472, 1485. (pp. 114-5).

Home, Alexander, second Lord, Coldingham 1493, Eccles Nunnery pre-1506.

(p. 115).

Home, Alexander, third Lord; Coldingham 1516; Eccles Nunnery 1506.

(p. 116).

Home, Alexander, fifth Lord; Coldingham 1551; Dryburgh 1551; Eccles Nunnery 1551.

Home, George, fourth Lord; Coldingham 1522; Dryburgh pre-1551; Eccles Nunnery 1522.

Home of Home, Alexander; Coldingham 1425, 1442.

Home of North Berwick, Alexander; North Berwick Nunnery 1557, 1569.

Home of Wedderburn, David; Coldingham 1425, 1441.

Hunman, Thomas, Bailie-depute; Dunfermline 1530s. (p. 168).

Innes of Innes, William, fifteenth laird; Tain 1566.

Irvine, Thomas; Temple (Haddington) 1532; (Berwick) 1534; (Linlithgow) 1535. (p. 139).

Johnsoun, William; Tain 1494.

Kennedy, Gilbert, second earl of Cassilis; Galloway 1516; Glenluce pre-1523. (pp. 120-1).

Kennedy, Gilbert, third earl of Cassilis, Glenluce 1543. (p. 121).

- Kennedy, Gilbert, fourth earl of Cassilis, Crossraguel 1561.
- Kennedy of "Knockrewauch", John; Whithorn Chapter 1487. (p. 120).
- Ker of Cessford, Walter; Kelso 1473, 1478. (p. 117).
- Ker of Ferniehurst, Andrew; Jedburgh 1528. (pp. 117-8).
- Ker of Ferniehurst, John; Jedburgh 1528, 1547. (p. 118).
- Kincaid, George; Holyrood, 1485-1508.
- Kinnear of Kinnear, John; Balmerino 1599. (p. 129).
- Knightson, David, Bailie-depute; Pittenweem 1540. (p. 166).
- Lauder, Robert; Holyrood 1487. (p. 126).
- Lauder of the Bass, Robert; Dunkeld (Aberlady) 1515; St. Andrews (Tyninghame) 1538, 1542. (p. 148).
- Lawson of Highrigg, Richard; Holyrood 1490. (p. 126).
- Learmonth of Dairsie, David; St. Andrews 1506. (p. 141).
- Learmonth of Dairsie, Patrick; St. Andrews 1549, 1562. (p. 141).
- Lindsay, Alexander, Master of Crawford; Scone mid-15th century; Arbroath mid-15th century. (p. 130).
- Livingstone, Alexander; Newbattle 1453.
- Livingstone, Edward; Temple Courts Liston 1459.
- Lunan, John, Bailie-depute; Dunfermline 1530s.
- Lyon of Glamis, Alexander, second Lord; Eassie 1475. (p. 151).
- McCulloch of Plaids, Angus, second laird; Tain late 15th century. (p. 152).
- McCulloch of Plaids, John, first laird; Tain 1458. (p. 152).
- McCulloch of Plaids, Thomas, fourth laird; Tain 1541.
- McCulloch of Plaids, William, third laird; Tain 1512.
- Maule of Panmure, Robert; Balmerino (Barry) 1554, 1558.
- Maule of Panmure, Thomas; Balmerino (Barry) 1506, 1511, 1512. (p. 135).
- Maxwell, John, fourth Lord; Holywood 1495; Sweetheart 1503, 1507. (pp. 119-20).

- Maxwell, Robert, fifth Lord; Holywood 1523; Sweetheart 1548;
Dundrennan 1513x44; Tongland 1513x44; Lincluden 1513x44; Trailtrow 1513x44.
(p. 120).
- Menzies, Gilbert; Arbroath (Torry) 1527.
- Michelson, Robert; Holyrood 1458.
- Moncrieff of Tippermalloch, George; Methven 1499. (p. 150).
- Moncrieff of Tippermalloch, Robert, son of the above; Methven 1499.
- Monepenny of Pilrig, Robert; Holyrood 1520.
- Monepenny, Alexander; Temple (Fife) 1490.
- Montgomery of Eglinton, Hugh, first earl; Kilwinning 1540, 1544.
(pp. 122-3).
- Montgomery of Eglinton, Hugh, second earl; Kilwinning 1545.
- Mudie, William; St. Andrews Chapter 1499.
- Ogilvy of Airlie, James, first Lord; Coupar-Angus 1465; Arbroath
1467, 1481; Brechin late 15th century. (p. 131).
- Ogilvy of Airlie, James, third Lord, Coupar-Angus, 1507x12;
Arbroath 1514; Brechin early 16th century. (p. 132).
- Ogilvy of Airlie, James, fourth Lord; Coupar-Angus 1522, 1523, 1539;
Arbroath 1526, 1529, 1543, Brechin mid-16th century.
- Ogilvy of Airlie, John, second Lord, Coupar-Angus 1501; Arbroath
1485, 1504. (pp. 131-2).
- Ogilvy, Patrick, Bailie-depute; Coupar-Angus 1460.
- Ogilvy of Keillour, John, Bailie-depute; Coupar-Angus 1478.
- Ogilvy of Luntreith, John; Coupar-Angus 1481, 1485.
- Oliphant, Laurence, first Lord; Inchaffray 1469; Elcho Nunnery 1470
(pp. 124-5).
- Oliphant, Laurence, third Lord; Inchaffray 1544. (p. 125).
- Peebles, John, Burgess of Perth; Perth Blackfriars 1533. (p. 138).
- Pollart, Henry; Temple (Linlithgow) 1533, 1541.
- Prestoun of Craigmillar, William; Dunfermline (Musselburgh) 1471.
(p. 135).

- Rattray of Rattray, George; Coupar-Angus 1484.
- Rattray of Rattray, John; Scone 1506. (pp. 130-1).
- Roger, William, Bailie-depute; Coupar-Angus 1544. (p. 166).
- Rolland, William; Aberdeen (Torry) 1527.
- Ross, James, Burgess of Edinburgh; Temple (Edinburgh) 1497.
- Rutherford, John; Aberdeen 1524.
- Scott of Abbotshall and Fawside, Thomas; Pittenweem 1540, 1550.
(p. 129).
- Scott of Buccleuch, David; Melrose 1484. (p. 118).
- Scott of Buccleuch, Robert, son of the above; Melrose 1484.
- Scott of Buccleuch, Walter; Melrose 1519, 1524.
- Sempill, John, first Lord; Glasgow Chapter 1494.
- Sempill, Robert, third Lord; Paisley 1545. (p. 123).
- Sempill, Robert, Master of Sempill; Paisley 1545.
- Sempill of ?"Elyoeston", William; Paisley 1460.
- Sinclair, Oliver; Hospital of St. Leonard, Lasswade 1500.
- Skougall, Thomas; Temple (Angus and Gowry) 1494.
- Somerville, Hugh, fourth Lord; Glasgow (Carstairs) 1517. (p. 145).
- Spens of Pittencrieff, Alexander; Temple (Fife) 1490. (p. 140).
- Stewart (Royal), King James V; Melrose 1535. (p. 164).
- Stewart (Royal), James, son of the above; St. Andrews (Tynninghame)
1535. (p. 163).
- Stewart, Alan; Paisley 1490. (p. 54).
- Stewart of ?Rosyth, David; Culross 1481. (p. 128).
- Stewart of Rosyth, Henry; Inchcolm 1538. (pp. 128-9).
- Strachan, Alexander, Bailie-depute; Coupar-Angus (Murthly) 1487.
- Strachan, John; Bailie-depute; Coupar-Angus (Murthly) 1487.
- Towers, Thomas; Dunkeld 1510.
- Traill, Alexander, Bailie-depute; Dunfermline 1530s. (p. 168).

Tyrie of ?Drumkilbo, John; Methven 1499, 1505. (pp. 158-9).

Wallace of Craigie, Hugh; Paisley (Ayrshire Lands) pre-Reformation.
(pp. 134-5).

Wallace of Newton, Adam; Kingcase Hospital 1516, 1530.

Wallace of Newton, Hugh; Kingcase Hospital, pre-1516, 1535.

Wemyss of Wemyss, John; Elcho Nunnery 1552. (p. 138).

Whiteford, John; Paisley 1490. (p. 54).

TABLE 15

Chronological List of the periods of tenure granted of the office of
bailie: Friendly Tenancy

<u>Institution or Estate</u>	<u>Type of Grant</u>	<u>Family</u>	<u>Reference</u>
Kelso (1435x64)	at will of abbot	Formulary	<u>Kelso</u> , no. 549
Barry (1506)	at will of abbot	Maule of Panmure	<u>Panmure</u> , pp. 269-70
Ellon (152-)	at will of abbot	Cheyne of Esslemont	S.R.O., Errol: GD175/340
Dunfermline (1512)	at will of abbot	Lord of Morton	<u>Acts of Council (Public Affairs)</u> , p. 13.
Dunfermline (early sixteenth century)	no specification	Formulary	<u>Dunfermline</u> , no. 588
"Colinhath Rig" (1471)	no specification	Roger Cairns	S.R.O., Broughton and Cally: GD10/5
Barry (1511)	no specification	Maule of Panmure	<u>Panmure</u> , p. 279
Bishop and Muckartshires (1525)	no specification	Douglas of Lochleven	S.R.O., Morton: GD150/957

TABLE 16

Chronological List of the periods of tenure granted of the office of
bailie: Life Rent

<u>Institution or Estate</u>	<u>Type of Grant</u>	<u>Family</u>	<u>Reference</u>
Lesmahagow (1456)	life-rent	Hamilton	<u>H.M.C. Rept.</u> , XI, pt. 6 (Hamilton), p. 213, no. 134.
Inchaffray (1469)	life-rent	Oliphant of Gask	<u>Oliphant</u> , pp. 13-14, no. 23.
Elcho (1470)	life-rent	Oliphant of Gask	<u>Oliphant</u> , pp. 16-17, no. 28
Pluscarden (1500)	life-rent	Dunbar of Cumnock	<u>Pluscardyn</u> , pp. 235-6
Melrose (1535)	life-rent	King James V	S.R.O., Register House Charters: RH6/1107

TABLE 17

Chronological List of the periods of tenure granted of the office of
bailie: The Tack

Institution or Estate	Length of Tenure	Family	Reference
Bishop and Muckartshires (1538)	3 years	Douglas of Lochleven	S.R.O., Morton: GD150/959
<u>Melrose</u> (1484)	5 years	Scott of Buccleuch	<u>Buccleuch</u> , II, pp. 82-3, no. 84.
Methven (1499)	5 years	Tyrie, Moncrieff of Tippermalloch	<u>Methven</u> , p. 34
Methven (1505)	5 years	Tyrie	<u>Methven</u> , p. 34
<u>Coupar-Angus</u> (1523)	5 years	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXVII
<u>Glenluce</u> (1543)	5 years	Kennedy of Cassilis	S.R.O., Ailsa: GD25/1/451.
<u>Kilwinning</u> (1540)	6 years	Montgomery of Eglinton	S.R.O., Eglinton: GD3/1/723
<u>Arbroath</u> (1485)	11 years	Ogilvy of Airlie	<u>Arbroath</u> , II, no. 281
Dunfermline (1502)	19 years	Hepburn of Bothwell	Register of Supplications, vol. 1150, fo. 139 verso
Barry (1511)	19 years	Maule of Panmure	<u>Panmure</u> , p. 280
Melrose (1519)	19 years	Scott of Buccleuch	<u>Buccleuch</u> , II, pp. 133-4, no. 126
<u>Kylesmuir/Barmuir</u> (1521)	19 years	Campbell of Loudoun	<u>Melrose</u> , II, no. 598
<u>Coupar-Angus</u> (1522)	19 years	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXVI
<u>Torry</u> (1527)	19 years	Burgesses	<u>Arbroath</u> , II, no. 646
Inchmahome (1531)	19 years	Erskine	S.R.O., Mar and Kellie: GD124/1/962
<u>Inchcolm</u> (1538)	19 years	Stewart of Rosyth	<u>Inchcolm</u> , no. LVIII

TABLE 17 (Contd.)

Institution or Estate	Length of Tenure	Family	Reference
<u>Kilwinning</u> (1544)	19 years	Montgomery of Eglinton	S.R.O., Fraser Inventory, Bundle 80, no. 2
Glasgow (1545)	19 years	Arran	H.M.C. Rept., XI, pt. 6 (Hamilton), p. 221, no. 161

Code: The underlining in red of an institution means that the tack was hereditary within the period specified.

TABLE 18

Chronological List of the periods of tenure granted of the office of
bailie: The Hereditary Grant

<u>Institution or Estate</u>	<u>Family</u>	<u>Reference</u>
Coldingham (1465)	Home of Home	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 176, no. 298
Kelso (1473)	Ker of Cessford	Register of Supplications, vol. 691, fo. 293 recto
Tongland (pre-1516)	Maxwell of Pollok	G. Chalmers, <u>Caledonia</u> , V, p. 303
Eccles (? 1509)	Home of Home	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 128, no. 130
Galloway (1516, unclear)	Kennedy of Cassilis	S.R.O., Ailsa: GD25/1/239
Holywood (1523)	Maxwell of Pollok	<u>H.M.C. Rept.</u> , XV, pt. 8 (Buccleuch), p. 71, no. 170
Melrose (1524)	Scott of Branhholm	<u>Buccleuch</u> , II, pp. 142-3, no. 131
Lesmahagow (1532)	Hamilton of Finnart	<u>R.M.S.</u> , III, 1885
Tynninghame (1535)	Stewart	<u>Haddington</u> , II, p. 255, no. 351.
Coupar-Angus (1539)	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXXXIII
Tynninghame (1540)	Lauder of the Bass	<u>Haddington</u> , II, p. 258, no. 357
Newbattle (sea-gate) (1541)	Alexander Atkinson	<u>R.M.S.</u> , III, 2362
Auchtertyre (1542)	Campbell of Lawers	<u>R.M.S.</u> , III, 2993
Inchaffray (1544)	Oliphant of Gask	<u>Oliphant</u> , pp. 67-70, no. 119
Kilwinning (1544)	Montgomery of Eglinton	S.R.O., Eglinton: GD3/1/724
Paisley (1545)	Sempill	<u>Paisley</u> , app. II
Sweetheart (1548)	Maxwell of Pollok	G. Chalmers, <u>Caledonia</u> , V, p. 306
Aberdeen (1549)	Gordon of Huntly	<u>Aberdeen</u> , II, pp. 306-10

TABLE 18 (Contd.)

<u>Institution or Estate</u>	<u>Family</u>	<u>Reference</u>
Pittenweem (1550)	Scott of Fawside	W. Wood, <u>The East Neuk of Fife</u> , p. 296
Elcho (1552)	Wemyss of Wemyss	<u>Wemyss</u> , I, p. 136 and note 2

TABLE 19

List of bailie-fees with specification of values

<u>Institution or Estate</u> ¹	<u>Fee</u>	<u>Reference</u>
Sweetheart (1548)	5 merks	G. Chalmers, <u>Caledonia</u> , V, p. 306
Elcho (1470)	10 merks	<u>Oliphant</u> , pp. 16-17, no. 28
Inchcolm (1538)	10 merks (cash)	<u>Inchcolm</u> , no. LVIII
Galloway (1516)	£5	S.R.O., Ailsa: GD25/1/239
Eccles (Sixteenth Century)	£5 (unclear)	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 97, no. 24
Tongland (Sixteenth Century)	£5	G. Chalmers, <u>Caledonia</u> , V, p. 303
Keig and Monymusk (1539)	£6.13.4 (cash)	<u>Rentale Sancti Andree</u> , p. 92
Kelso (1473)	£10	Register of Supplications, vol. 691, fo. 293 recto
Bishop and Muckartshires (1539)	£10	<u>Rentale Sancti Andree</u> , p. 92
Dryburgh (1551)	£10 (unclear)	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 97, no. 24
Inchaffray (1544)	20 merks (cash)	<u>Oliphant</u> , pp. 67-70, no. 119
Coldingham (1465)(1551)	£20 (cash)	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 97, no. 24
Kilwinning (1544)	£40	S.R.O., Eglinton: GD3/1/724

Code: (Cash) means that the method of raising the revenues was not intimated and that in all probability the sum specified was handed to the bailie directly by the monastery.

(Unclear) means that the method of raising the revenues cannot be established with certainty.

1. Though the information lies outwith the period under consideration, about the year 1560 both the earl of Bothwell as bailie and Patrick Hepburn of Benistoun as bailie-depute of the Nunnery of Haddington received £100 as their bailie-fees. This is by far the highest amount to come to light. (S.R.O., Book of Assumption of Thirds of Benefices: E48/1/1, fo. 166 verso).

TABLE 20

List of fees to be raised by the BailieInstitution

<u>Sweetheart</u> (1548)	Five merk lands of Lochartur	G. Chalmers, <u>Caledonia</u> , V, p. 306
Elcho (1470)	Ten merks from (de) the lands of Kinnard in Fife	<u>Oliphant</u> , pp. 16-17, no. 28
<u>Galloway</u> (1516)	Five pound lands of old extent called Cullintrae	S.R.O., Ailsa: GD25/1/239
<u>Tongland</u> (Sixteenth Century)	Five pound lands of Cargen	G. Chalmers, <u>Caledonia</u> , V, p. 303
Coupar-Angus (1522)	Six pounds thirteen and fourpence from the lands of Adory with the revenues of Eglismady	<u>Coupar Chrs.</u> , II, no. CLXVI
Kelso (1478)	Ten pounds to be uplifted from the lands of Bowden	<u>H.M.C. Rept.</u> , XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35
Kilwinning (1544)	Forty pounds from the barony of Beith	S.R.O., Eglinton GD3/1/724

Code: In the above instances where the fees were to be raised by the bailies themselves, and the word "from" was employed, the fee was paid in cash. Where the word "of" was employed, the fee was paid in kind. The institutions underlined in red paid their bailies in kind.

TABLE 21List of Bailie-Fees Paid in Kind

<u>House or Estate</u>	<u>Fee</u>	<u>Reference</u>
Culross (1495)	Profits of lands of Balgeny and all other duties	S.R.O., Cardross: GD15/153
Melrose (1524)	Farms of lands of North house and Thirlstane	<u>Buccleuch</u> , II, pp. 142-3, no. 131
Inchmahome (1531)	Teind shaws of a number of specified places	S.R.O., Mar and Kellie: GD124/1/962
Bishop and Muckartshires (1539)	Mails of the lands of Bracoly	S.R.O., Morton: GD150/958
Sweetheart (1539)	Lands of Lochartur, free of all mails and other duties, save teinds and multures	<u>Carlaverock</u> , II, pp. 468-9, no. 88
Elcho (1552)	Little meadow of Elcho	<u>Wemyss</u> , I, p. 136
Paisley (Ayrshire lands)	6 chalders and 15 bolls of meal from teinds of church of Craigie	G. Chalmers, <u>Caledonia</u> , VI, pp. 823-4

TABLE 22List of "Mixed" Fees

<u>House</u>	<u>Fee</u>	<u>Reference</u>
Coupar-Angus (1522)	£6.13.4 from (de) the lands of Adory with the revenues of Eglismady	<u>Coupar Chrs.</u> , II, no. CLXVI
Coupar-Angus (1539)	27 $\frac{1}{2}$ merks, 8 bolls of corn and 3 dozen chickens	<u>Coupar Chrs.</u> , II, no. CLXXIII
Paisley (1545)	3 chalders of corn and 43/4 of the lands of Glen	<u>Paisley</u> , app. II

TABLE 23List of Bailie-Fees without Specification of Value

<u>Institution</u>	<u>Reference</u>
Inchaffray (1469)	<u>Oliphant</u> , pp. 13-14, no. 23
Dunfermline (1502)	Register of Supplications, vol. 1150, fo. 139 verso
Scone (1506)	<u>H.M.C. Rept.</u> , IV (Rattray), p. 536
Galloway (1516)	S.R.O., Ailsa: GD25/1/239
Melrose (1524)	<u>Buccleuch</u> , II, pp. 143-4, no. 132
Melrose (1535)	S.R.O., Register House Charters: RH6/1107

List of Grants of the Office of Ecclesiastical Bailie

The inclusion of a chronological list of documents which concern the office of bailie has not been considered worthwhile. The most important of these may be found arranged under each institution in the foot-notes to Appendix 1. References to individual bailies may be traced by way of Appendix 2. However, as letters and grants of bailiary have proved a major source of information on the functions and position of the office, a list of grants which have thus far come to light, has been included.

<u>Institution/Estate</u>	<u>Date</u>	<u>Family</u>	<u>Reference</u>
Kelso	1435x64	Formulary	<u>Kelso</u> , no. 549
Newbattle	1453	Livingstone	<u>C.P.L.</u> , X, pp. 570-1
Lesmahagow	1456	Hamilton	<u>H.M.C. Rept.</u> , XI, pt. 6 (Hamilton), pp. 213-4, no. 134
Coldingham	1465	Home of Home	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 176, no. 298
Coldingham	1466	Home of Home	<u>R.M.S.</u> , II, 859
Coldingham	1467	Home of Home	Register of Supplications, vol. 630, fo. 330v.
Coldingham	1467	Home of Home	<u>C.P.L.</u> , XII, p. 620
Inchaffray	1469	Oliphant of Gask	<u>Oliphant</u> , pp. 13-14, no. 23
Elcho	1470	Oliphant of Gask	<u>Oliphant</u> , pp. 16-17, no. 28
"Colinhath Rig"	1471	Roger Cairns	S.R.O., Broughton and Cally: GD10/5
Coldingham	1472	Home of Home	<u>R.M.S.</u> , II, 1093
Kelso	1473	Ker of Cessford	Register of Supplications, vol. 691, fo. 293r.

<u>Institution/Estate</u>	<u>Date</u>	<u>Family</u>	<u>Reference</u>
Kelso	1473	Ker of Cessford	Register of Supplications, vol. 694, fo. 35r.
"Athkarmoure"	1476	Hamilton of Bradhurst	<u>Arbroath</u> , II, no. 198
Kelso	1478	Ker of Cessford	<u>H.M.C. Rept.</u> , XIV, pt. 3 (Roxburghe), pp. 19-20, no. 35
Melrose	1484	Scott of Buccleuch	<u>Buccleuch</u> , II, pp. 82-3, no. 84
Coldingham	1485	Home of Home	Register of Supplications, vol. 845, fo. 120-120v.
Arbroath	1485	Ogilvy of Airlie	<u>Arbroath</u> , II, no. 281
Coldingham	1493	Home of Home	<u>R.M.S.</u> , II, 2162
Culross	1495	Campbell of Argyll	S.R.O., Cardross: GD15/153
Methven	1499	Tyrie of Drumkilbo Moncrieff of Tippermalloch	<u>Methven</u> , p. 34
Pluscarden	1500	Dunbar of Durris	<u>Pluscardyn</u> , pp. 235-6
Dunfermline	1502	Hepburn of Bothwell	Register of Supplications, vol. 1150, fo. 139v.
Methven	1505	Tyrie of Drumkilbo	<u>Methven</u> , p. 34
Scone	1506	Rattray of Rattray Abercromby of Inverpeffray	<u>H.M.C. Rept.</u> , IV (Rattray), p. 536
Barry	1506	Maule of Panmure	<u>Panmure</u> , pp. 269-70
Barry	1511	Maule of Panmure	<u>Panmure</u> , p. 279
Barry	1512	Maule of Panmure	<u>Panmure</u> , p. 280
Dunfermline	1512	Lord of Morton	<u>Acts of Council (Public Affairs)</u> , p. 13
Arbroath	1514	Ogilvy of Airlie	S.R.O., Airlie: GD16/25/70

Institution/Estate	Date	Family	Reference
Dunfermline	early 16th century	Formulary	<u>Dunfermline</u> , no. 588
Tongland	pre-1516	Maxwell of Pollok	G. Chalmers, <u>Caledonia</u> , V, p. 303
Kingcase Hospital	1516	Wallace of Newton	<u>R.M.S.</u> , III, 62
Eccles	1522	Home of Home	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 128, no. 130
Galloway	1516	Kennedy of Cassilis	<u>S.R.O.</u> , Ailsa: GD25/1/239
Melrose	1519	Scott of Buccleuch	<u>Buccleuch</u> , II, pp. 133-4, no. 126
Kylesmuir/Barmuir	1521	Campbell of Loudoun	<u>Melrose</u> , II, no. 598
Ellon	152-	Cheyne of Esslemont	<u>S.R.O.</u> , Errol: GD175/340
Elcho	1522	Home of Home	<u>H.M.C. Rept.</u> , XII, pt. 8 (Home), p. 128, no. 130
Coupar-Angus	1522	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXVI
Coupar-Angus	1523	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXVII
Hollywood	1523	Maxwell of Pollok	<u>H.M.C. Rept.</u> , XV, pt. 8 (Buccleuch), p. 71, no. 170
Hollywood	1523	Maxwell of Pollok	<u>H.M.C. Rept.</u> , XV, pt. 8 (Buccleuch), pp. 72-3, no. 173
Melrose	1524	Scott of Branhholm	<u>Buccleuch</u> , II, pp. 142-3, no. 131
Bishop/Muckart-shires	1525	Douglas of Lochleven	<u>S.R.O.</u> , Morton: GD150/957
Torry	1527	Burgesses	<u>Arbroath</u> , II, no. 646
"Athkarmoure"	1529		<u>Arbroath</u> , II, no. 733
Kingcase Hospital	1530	Hamilton of "Maknariston"	<u>R.M.S.</u> , III, 942

Institution/Estate	Date	Family	Reference
Inchmahome	1531	Erskine	S.R.O., Mar and Kellie: GD124/1/962
Wemyss Church	1531	Colville of Wemyss	<u>Midlothian Chrs.</u> , pp. 107-8, no. 39
Lesmahagow	1532	Hamilton of Finnart	<u>R.M.S.</u> , III, 1885
Melrose	1535	King James V	S.R.O., Register House Charters: RH6/1107
Tynninghame	1535	Stewart (Royal)	<u>Haddington</u> , II, pp. 254-5, no. 351
Inchcolm	1538	Stewart of Rosyth	<u>Inchcolm</u> , no. LVIII
Bishop/Muckart- shires	1538	Douglas of Lochleven	S.R.O., Morton: GD150/959
Coupar-Angus	1539	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXXIII
Kilwinning	1540	Montgomery of Eglinton	S.R.O., Eglinton: GD3/1/723
Tynninghame	1540	Lauder of the Bass	<u>Haddington</u> , II, p. 258, no. 357
Coupar-Angus	1540	Ogilvy of Airlie	<u>Coupar Chrs.</u> , II, no. CLXXV
Newbattle (sea-gate)	1541	Alexander Atkinson	<u>R.M.S.</u> , III, 2362
Auchtertyre	1542	Campbell of Lawers	<u>R.M.S.</u> , III, 2993
Glenluce	1543	Kennedy of Cassilis	S.R.O., Ailsa: GD25/1/451
Inchaffray	1544	Oliphant of Gask	<u>Oliphant</u> , pp. 67-70, no. 119
Kilwinning	1544	Montgomery of Eglinton	S.R.O., Fraser Inventory, Bundle 80, no. 2
Kilwinning	1544	Montgomery of Eglinton	S.R.O., Fraser Inventory, Bundle 80, no. 5
Inchaffray	1545	Oliphant of Gask	<u>Oliphant</u> , pp. 72-75, no. 121

Institution/Estate	Date	Family	Reference
Paisley	1545	Sempill	<u>Paisley</u> , App. II
Glasgow	1545	Hamilton, earl of Arran	<u>H.M.C. Rept.</u> , XI, pt. 6 (Hamilton), p. 221, no. 161
Jedburgh	1547	Ker of Ferniehurst	S.R.O., Register of Jedburgh: Ch6/6/1, fo. 25-25v.
Sweetheart	1548	Maxwell of Pollok	G. Chalmers, <u>Caledonia</u> , V, p. 306
Aberdeen	1549	Gordon of Huntly	<u>Aberdeen</u> , II, pp. 306-10
Pittenweem	1550	Scott of Fawside	W. Wood, <u>The East Neuk of Fife</u> , p. 296
Elcho	1552	Wemyss of Wemyss	<u>Wemyss</u> , I, p. 136 and note 2

Source List and Bibliography - Introduction

The sources for this thesis are extremely disparate and much methodical search work was undertaken in the collection of relevant material. Almost all sources, in particular ecclesiastical chartularies, family papers and various calendars of documents, were examined seriatim and texts bearing upon the subject of bailiary were extracted. The two groups of sources which yielded most information were the ecclesiastical chartularies and family papers, both published and un-published. All extant ecclesiastical chartularies containing evidence for the period under consideration were examined.¹ With regard to family papers, the 'gift and deposit' collection² in the Scottish Record Office was fully searched for information bearing upon the subject. This was supported with an examination of the relevant reports of the Historical Manuscripts Commission³ and of the many miscellaneous collections of family papers outlined below.

Something should also be said with regard to the foreign sources, now becoming available to the historian of the late mediaeval Church in Scotland. All relevant material gathered from the Vatican and Italian State Archives, held in the Department of Scottish History in

1. Lists of chartularies, none of which is complete in itself, may be found in W. Angus, 'Charter, Cartularies and Deeds, 1094-1700', Stair Society, I, (1936), pp. 259-73; G.R.C. Davis, Medieval Cartularies of Great Britain, pp. 129-37; and D.E.R. Watt's, List of Abbreviated Titles of the Printed Sources of Scottish History, Supplement to the Scottish Historical Review, XLII (1963)

2. A full list of gifts and deposits may be found in the index in the Scottish Record Office. A project is under way to publish a list of the collections but as yet only volume one, dealing with the first thirty-nine, has appeared. (List of Gifts and Deposits, Edinburgh, 1971).

3. Lists of commission reports from 1870 to 1899 and 1900 to 1949 may be found in the General Indices to the Bills, Reports, Estimates, Accounts and Papers printed by order of the House of Commons and to the Papers presented by Command, vol. ii (1852-1899), p. 691; vol. iii (1900-1949), p. 321.

the University of Glasgow,¹ was examined but disappointingly little was found to concern the office of bailie. The twenty-five micro-film reels containing the Scottish entries in the Public Record Office Transcripts, brought together by Dr. I.B. Cowan, yielded nothing at all.² The other principal collection, that of the Register of Supplications, is at various stages of accessibility. From the period 1450 to 1479 the manuscript calendar, compiled by Dr. A.I. Dunlop, did contain a number of relevant entries. For the period 1479 to 1542 work on the calendar is at different stages of advancement. Some material of relevance to the thesis has been unearthed from this section, but only when the calendar has been completed will the information become fully accessible to the historian who may be interested in only a few of the many thousands of entries. An unknown quantity of material, which difficulties of palaeography and bulk together aid in concealing, still lies buried within its depths.

In a slightly different vein is the material which went to form the chapter on the position of the Church in fifteenth and sixteenth century Europe. Of necessity reading was of a general nature, confined to published narrative primary works and secondary material. Many of the attitudes to the general condition of the sacerdotium and its relations with the regnum, evident not merely in the background

1. For a relatively up-to-date inventory of Vatican material held by the department, see I.B. Cowan, *The Vatican Archives: A Report on Pre-Reformation Scottish Material*, Scottish Historical Review, XLVIII (1969), pp. 227-42.

2. Two typed reports on the Roman Transcripts held in the Public Record Office, London, together with a summary of the contents of each reel, are available in the department.

chapter but in the thesis as a whole, owe their origins to the impression of contemporary Europe given in these works. A brief list of the more important works consulted has, consequently, been included.

The following bibliography is primarily one of works and sources actually cited in the thesis, arranged under the headings outlined below. Negative evidence may also be of importance and an additional section, listing those collections examined seriatim which yielded no information at all on the office, has been included. To have added a full list of all secondary works consulted would have been a tedious and unrewarding task. In the latter instance only works actually cited in the thesis have been included.

Source List and Bibliography

Section I: Manuscript Sources

1. Private Muniments in the Scottish Record Office.
2. Miscellaneous Sources.
3. Narrative Sources.

Section II: Printed Sources

1. Royal Government.
2. Ecclesiastical Sources.
3. Family Papers.
4. Narrative Sources.
5. Other Sources.

Section III: Sources examined seriatim in which no relevant material was found.

Section IV: Secondary Works

1. Books.
2. Articles.
3. Unpublished Theses.
4. Works of reference.

Section V: Background Material

Section I: Manuscript Sources

Private Muniments in the Scottish Record Office

Ailsa Muniments (GD 25)
 Airlie Muniments (GD 16)
 Blebo Writs (GD 7)
 Broughton and Cally Muniments (GD 10)
 Cardross Writs (GD 15)
 Craigmillar and Liberton Collection (GD 122)
 Crawford Priory Collection (GD 20)
 Curle Collection (GD 111)
 Dalhousie Muniments (GD 45)
 Douglas Collection (GD 98)
 Dundas of Dundas Papers (GD 75)
 Duntreith Muniments (GD 97)
 Eglinton Muniments (GD 3)
 Elibank Muniments (GD 32)
 Errol Charters (GD 175) (Now on micro-film RH1/6)
 Fraser Charters (GD 86)
 Galloway Charters (GD 138)
 Gordon Castle Muniments (GD 44)
 Haddo House Muniments (GD 33)
 Home of Marchmont Papers (GD 158)
 Mackintosh Muniments (GD 176)
 Makgill Charters (GD 82)
 Mar and Kellie Muniments (GD 124)
 Miscellaneous Accessions (GD 1)
 Morton Papers (GD 150)

Newbattle Collection (GD 40)

Rossie Priory Muniments (GD 48)

Society of Antiquaries of Scotland Collection (GD 103)

Yester Writs (GD 28)

Miscellaneous Sources

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- Calendar of Scottish Supplications 1450-78 (Scottish History Department, University of Glasgow)
- Crail Burgh Charters (Scottish Record Office, Ref., B 10)
- Laing Charters (Edinburgh University Library)
- Oliphant Muniments (National Library of Scotland, Ref., Adv. MS.82.2.1)
- Protocol Book of Alexander Symson (Scottish Record Office, Ref., B30/1/2)
- Register of Charters and Leases by abbots, commendators etc. of Jedburgh Abbey (Scottish Record Office, Ref., CH6/6/1)
- Register of Deeds (Old Series), vol.ii. (Scottish Record Office)
- Register House Charters (Scottish Record Office, Ref., RH6)
- Register of Supplications-Scottish entries 1479-1542 (Scottish History Department, University of Glasgow, micro-film)
- Registrum Nigrum of Arbroath Abbey (National Library of Scotland, Ref., Adv. MS.34.4.3)
- Registrum Magni Sigilli (Scottish Record Office, Ref., C2)
- St. Andrews Charters (Scottish Record Office, Ref., B65)
- St. Andrews Formulare (St. Andrews University Library, Ref., ^{MS}BX. 1945 L2)
- Transcripts (Scottish Record Office, Ref., RH1)

Narrative Sources

A. Hay, Ane account of the most renowned churches, bishopricks, monasteries and other devote places from the first introducing of Christianity into Scotland to...the severall reformations of religion. (Scotia Sacra). (National Library of Scotland, Ref., Adv. MS. 34.1.8).

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Section II: Printed Sources

Royal Government

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Acts of the Lords of Council in Public Affairs 1501-54: Selections from Acta Dominorum Concillii, ed. R.K. Hannay, Edinburgh, 1932.

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